

115TH CONGRESS
1ST SESSION

H. R. 1

To provide for reconciliation pursuant to title II of the concurrent resolution on the budget for fiscal year 2018.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 2, 2017

Mr. BRADY of Texas (for himself, Mr. RYAN of Wisconsin, Mr. SAM JOHNSON of Texas, Mr. NUNES, Mr. TIBERI, Mr. REICHERT, Mr. ROSKAM, Mr. BUCHANAN, Mr. SMITH of Nebraska, Ms. JENKINS of Kansas, Mr. PAULSEN, Mr. MARCHANT, Mrs. BLACK, Mr. REED, Mr. KELLY of Pennsylvania, Mr. RENACCI, Mr. MEEHAN, Mrs. NOEM, Mr. HOLDING, Mr. SMITH of Missouri, Mr. RICE of South Carolina, Mr. SCHWEIKERT, Mrs. WALORSKI, Mr. CURBELO of Florida, and Mr. BISHOP of Michigan) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To provide for reconciliation pursuant to title II of the concurrent resolution on the budget for fiscal year 2018.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; ETC.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Tax Cuts and Jobs Act”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-
7 wise expressly provided, whenever in this Act an amend-

1 ment or repeal is expressed in terms of an amendment
 2 to, or repeal of, a section or other provision, the reference
 3 shall be considered to be made to a section or other provi-
 4 sion of the Internal Revenue Code of 1986.

5 (c) TABLE OF CONTENTS.—The table of contents for
 6 this Act is as follows:

Sec. 1. Short title; etc.

TITLE I—TAX REFORM FOR INDIVIDUALS

Subtitle A—Simplification and Reform of Rates, Standard Deduction, and Exemptions

- Sec. 1001. Reduction and simplification of individual income tax rates.
- Sec. 1002. Enhancement of standard deduction.
- Sec. 1003. Repeal of deduction for personal exemptions.
- Sec. 1004. Maximum rate on business income of individuals.
- Sec. 1005. Conforming amendments related to simplification of individual income tax rates.

Subtitle B—Simplification and Reform of Family and Individual Tax Credits

- Sec. 1101. Enhancement of child tax credit and new family tax credit.
- Sec. 1102. Repeal of nonrefundable credits.
- Sec. 1103. Refundable credit program integrity.

Subtitle C—Simplification and Reform of Education Incentives

- Sec. 1201. American opportunity tax credit.
- Sec. 1202. Consolidation of education savings rules.
- Sec. 1203. Reforms to discharge of certain student loan indebtedness.
- Sec. 1204. Repeal of other provisions relating to education.

Subtitle D—Simplification and Reform of Deductions

- Sec. 1301. Repeal of overall limitation on itemized deductions.
- Sec. 1302. Mortgage interest.
- Sec. 1303. Repeal of deduction for certain taxes not paid or accrued in a trade or business.
- Sec. 1304. Repeal of deduction for personal casualty losses.
- Sec. 1305. Limitation on wagering losses.
- Sec. 1306. Charitable contributions.
- Sec. 1307. Repeal of deduction for tax preparation expenses.
- Sec. 1308. Repeal of medical expense deduction.
- Sec. 1309. Repeal of deduction for alimony payments.
- Sec. 1310. Repeal of deduction for moving expenses.
- Sec. 1311. Termination of deduction and exclusions for contributions to medical savings accounts.
- Sec. 1312. Denial of deduction for expenses attributable to the trade or business of being an employee.

Subtitle E—Simplification and Reform of Exclusions and Taxable
Compensation

- Sec. 1401. Limitation on exclusion for employer-provided housing.
- Sec. 1402. Exclusion of gain from sale of a principal residence.
- Sec. 1403. Repeal of exclusion, etc., for employee achievement awards.
- Sec. 1404. Repeal of exclusion for dependent care assistance programs.
- Sec. 1405. Repeal of exclusion for qualified moving expense reimbursement.
- Sec. 1406. Repeal of exclusion for adoption assistance programs.

Subtitle F—Simplification and Reform of Savings, Pensions, Retirement

- Sec. 1501. Repeal of special rule permitting recharacterization of Roth IRA contributions as traditional IRA contributions.
- Sec. 1502. Reduction in minimum age for allowable in-service distributions.
- Sec. 1503. Modification of rules governing hardship distributions.
- Sec. 1504. Modification of rules relating to hardship withdrawals from cash or deferred arrangements.
- Sec. 1505. Extended rollover period for the rollover of plan loan offset amounts in certain cases.
- Sec. 1506. Modification of nondiscrimination rules to protect older, longer service participants.

Subtitle G—Estate, Gift, and Generation-skipping Transfer Taxes

- Sec. 1601. Increase in credit against estate, gift, and generation-skipping transfer tax.
- Sec. 1602. Repeal of estate and generation-skipping transfer taxes.

TITLE II—ALTERNATIVE MINIMUM TAX REPEAL

- Sec. 2001. Repeal of alternative minimum tax.

TITLE III—BUSINESS TAX REFORM

Subtitle A—Tax Rates

- Sec. 3001. Reduction in corporate tax rate.

Subtitle B—Cost Recovery

- Sec. 3101. Increased expensing.

Subtitle C—Small Business Reforms

- Sec. 3201. Expansion of section 179 expensing.
- Sec. 3202. Small business accounting method reform and simplification.
- Sec. 3203. Small business exception from limitation on deduction of business interest.

Subtitle D—Reform of Business-related Exclusions, Deductions, etc.

- Sec. 3301. Interest.
- Sec. 3302. Modification of net operating loss deduction.
- Sec. 3303. Like-kind exchanges of real property.
- Sec. 3304. Revision of treatment of contributions to capital.
- Sec. 3305. Repeal of deduction for local lobbying expenses.
- Sec. 3306. Repeal of deduction for income attributable to domestic production activities.

- Sec. 3307. Entertainment, etc. expenses.
- Sec. 3308. Unrelated business taxable income increased by amount of certain fringe benefit expenses for which deduction is disallowed.
- Sec. 3309. Limitation on deduction for FDIC premiums.
- Sec. 3310. Repeal of rollover of publicly traded securities gain into specialized small business investment companies.
- Sec. 3311. Certain self-created property not treated as a capital asset.
- Sec. 3312. Repeal of special rule for sale or exchange of patents.
- Sec. 3313. Repeal of technical termination of partnerships.

Subtitle E—Reform of Business Credits

- Sec. 3401. Repeal of credit for clinical testing expenses for certain drugs for rare diseases or conditions.
- Sec. 3402. Repeal of employer-provided child care credit.
- Sec. 3403. Repeal of rehabilitation credit.
- Sec. 3404. Repeal of work opportunity tax credit.
- Sec. 3405. Repeal of deduction for certain unused business credits.
- Sec. 3406. Termination of new markets tax credit.
- Sec. 3407. Repeal of credit for expenditures to provide access to disabled individuals.
- Sec. 3408. Modification of credit for portion of employer social security taxes paid with respect to employee tips.

Subtitle F—Energy Credits

- Sec. 3501. Modifications to credit for electricity produced from certain renewable resources.
- Sec. 3502. Modification of the energy investment tax credit.
- Sec. 3503. Extension and phaseout of residential energy efficient property.
- Sec. 3504. Repeal of enhanced oil recovery credit.
- Sec. 3505. Repeal of credit for producing oil and gas from marginal wells.
- Sec. 3506. Modifications of credit for production from advanced nuclear power facilities.

Subtitle G—Bond Reforms

- Sec. 3601. Termination of private activity bonds.
- Sec. 3602. Repeal of advance refunding bonds.
- Sec. 3603. Repeal of tax credit bonds.
- Sec. 3604. No tax exempt bonds for professional stadiums.

Subtitle H—Insurance

- Sec. 3701. Net operating losses of life insurance companies.
- Sec. 3702. Repeal of small life insurance company deduction.
- Sec. 3703. Computation of life insurance tax reserves.
- Sec. 3704. Adjustment for change in computing reserves.
- Sec. 3705. Modification of rules for life insurance proration for purposes of determining the dividends received deduction.
- Sec. 3706. Repeal of special rule for distributions to shareholders from pre-1984 policyholders surplus account.
- Sec. 3707. Modification of proration rules for property and casualty insurance companies.
- Sec. 3708. Modification of discounting rules for property and casualty insurance companies.
- Sec. 3709. Repeal of special estimated tax payments.

Sec. 3710. Capitalization of certain policy acquisition expenses.

Subtitle I—Compensation

Sec. 3801. Nonqualified deferred compensation.

Sec. 3802. Modification of limitation on excessive employee remuneration.

Sec. 3803. Excise tax on excess tax-exempt organization executive compensation.

TITLE IV—TAXATION OF FOREIGN INCOME AND FOREIGN PERSONS

Subtitle A—Establishment of Participation Exemption System for Taxation of Foreign Income

Sec. 4001. Deduction for foreign-source portion of dividends received by domestic corporations from specified 10-percent owned foreign corporations.

Sec. 4002. Application of participation exemption to investments in United States property.

Sec. 4003. Limitation on losses with respect to specified 10-percent owned foreign corporations.

Sec. 4004. Treatment of deferred foreign income upon transition to participation exemption system of taxation.

Subtitle B—Modifications Related to Foreign Tax Credit System

Sec. 4101. Repeal of section 902 indirect foreign tax credits; determination of section 960 credit on current year basis.

Sec. 4102. Source of income from sales of inventory determined solely on basis of production activities.

Subtitle C—Modification of Subpart F Provisions

Sec. 4201. Repeal of inclusion based on withdrawal of previously excluded subpart F income from qualified investment.

Sec. 4202. Repeal of treatment of foreign base company oil related income as subpart F income.

Sec. 4203. Inflation adjustment of de minimis exception for foreign base company income.

Sec. 4204. Look-thru rule for related controlled foreign corporations made permanent.

Sec. 4205. Modification of stock attribution rules for determining status as a controlled foreign corporation.

Sec. 4206. Elimination of requirement that corporation must be controlled for 30 days before subpart F inclusions apply.

Subtitle D—Prevention of Base Erosion

Sec. 4301. Current year inclusion by United States shareholders with foreign high returns.

Sec. 4302. Limitation on deduction of interest by domestic corporations which are members of an international financial reporting group.

Sec. 4303. Excise tax on certain payments from domestic corporations to related foreign corporations; election to treat such payments as effectively connected income.

Subtitle E—Provisions Related to Possessions of the United States

- Sec. 4401. Extension of deduction allowable with respect to income attributable to domestic production activities in Puerto Rico.
- Sec. 4402. Extension of temporary increase in limit on cover over of rum excise taxes to Puerto Rico and the Virgin Islands.
- Sec. 4403. Extension of American Samoa economic development credit.

Subtitle F—Other International Reforms

- Sec. 4501. Restriction on insurance business exception to passive foreign investment company rules.
- Sec. 4502. Limitation on treaty benefits for certain deductible payments.

TITLE V—EXEMPT ORGANIZATIONS

Subtitle A—Unrelated Business Income Tax

- Sec. 5001. Clarification of unrelated business income tax treatment of entities treated as exempt from taxation under section 501(a).
- Sec. 5002. Exclusion of research income limited to publicly available research.

Subtitle B—Excise Taxes

- Sec. 5101. Simplification of excise tax on private foundation investment income.
- Sec. 5102. Private operating foundation requirements relating to operation of art museum.
- Sec. 5103. Excise tax based on investment income of private colleges and universities.
- Sec. 5104. Exception from private foundation excess business holding tax for independently-operated philanthropic business holdings.

Subtitle C—Requirements for Organizations Exempt From Tax

- Sec. 5201. Churches permitted to make statements relating to political campaign in ordinary course of religious services and activities.
- Sec. 5202. Additional reporting requirements for donor advised fund sponsoring organizations.

1 **TITLE I—TAX REFORM FOR**
2 **INDIVIDUALS**
3 **Subtitle A—Simplification and Re-**
4 **form of Rates, Standard Deduc-**
5 **tion, and Exemptions**

6 **SEC. 1001. REDUCTION AND SIMPLIFICATION OF INDI-**
7 **VIDUAL INCOME TAX RATES.**

8 (a) IN GENERAL.—Section 1 is amended by striking
9 subsection (i) and by striking all that precedes subsection
10 (h) and inserting the following:

11 **“SEC. 1. TAX IMPOSED.**

12 “(a) IN GENERAL.—There is hereby imposed on the
13 income of every individual a tax equal to the sum of—

14 “(1) 12 PERCENT BRACKET.—12 percent of so
15 much of the taxable income as does not exceed the
16 25-percent bracket threshold amount,

17 “(2) 25 PERCENT BRACKET.—25 percent of so
18 much of the taxable income as exceeds the 25-per-
19 cent bracket threshold amount but does not exceed
20 the 35-percent bracket threshold amount, plus

21 “(3) 35 PERCENT BRACKET.—35 percent of so
22 much of taxable income as exceeds the 35-percent
23 bracket threshold amount but does not exceed the
24 39.6 percent bracket threshold amount.

1 “(4) 39.6 PERCENT BRACKET.—39.6 percent of
2 so much of taxable income as exceeds the 39.6-per-
3 cent bracket threshold amount.

4 “(b) BRACKET THRESHOLD AMOUNTS.—For pur-
5 poses of this section—

6 “(1) 25-PERCENT BRACKET THRESHOLD
7 AMOUNT.—The term ‘25-percent bracket threshold
8 amount’ means—

9 “(A) in the case of a joint return or sur-
10 viving spouse, \$90,000,

11 “(B) in the case of an individual who is
12 the head of a household (as defined in section
13 2(b)), \$67,500,

14 “(C) in the case of any other individual
15 (other than an estate or trust), an amount
16 equal to $\frac{1}{2}$ of the amount in effect for the tax-
17 able year under subparagraph (A), and

18 “(D) in the case of an estate or trust,
19 \$2,550.

20 “(2) 35-PERCENT BRACKET THRESHOLD
21 AMOUNT.—The term ‘35-percent bracket threshold
22 amount’ means—

23 “(A) in the case of a joint return or sur-
24 viving spouse, \$260,000,

1 “(B) in the case of a married individual fil-
2 ing a separate return, an amount equal to $\frac{1}{2}$
3 of the amount in effect for the taxable year
4 under subparagraph (A),

5 “(C) in the case of any other individual
6 (other than an estate or trust), \$200,000, and

7 “(D) in the case of an estate or trust,
8 \$9,150.

9 “(3) 39-PERCENT BRACKET THRESHOLD
10 AMOUNT.—The term ‘39.6-percent bracket threshold
11 amount’ means—

12 “(A) in the case of a joint return or sur-
13 viving spouse, \$1,000,000,

14 “(B) in the case of any other individual
15 (other than an estate or trust), an amount
16 equal to $\frac{1}{2}$ of the amount in effect for the tax-
17 able year under subparagraph (A), and

18 “(C) in the case of an estate or trust,
19 \$12,500.

20 “(c) INFLATION ADJUSTMENT.—

21 “(1) IN GENERAL.—In the case of any taxable
22 year beginning after 2018, each dollar amount in
23 subsection (b) (other than any amount determined
24 by reference to such a dollar amount) shall be in-
25 creased by an amount equal to—

1 “(A) such dollar amount, multiplied by

2 “(B) the cost-of-living adjustment deter-
3 mined under this subsection for the calendar
4 year in which the taxable year begins by sub-
5 stituting ‘2017’ for ‘2016’ in paragraph
6 (2)(A)(ii).

7 If any increase determined under the preceding sen-
8 tence is not a multiple of \$100, such increase shall
9 be rounded to the next lowest multiple of \$100.

10 “(2) COST-OF-LIVING ADJUSTMENT.—For pur-
11 poses of this subsection—

12 “(A) IN GENERAL.—The cost-of-living ad-
13 justment for any calendar year is the percent-
14 age (if any) by which—

15 “(i) the C-CPI-U for the preceding
16 calendar year, exceeds

17 “(ii) the normalized CPI for calendar
18 year 2016.

19 “(B) SPECIAL RULE FOR ADJUSTMENTS
20 WITH A BASE YEAR AFTER 2016.—For purposes
21 of any provision which provides for the substi-
22 tution of a year after 2016 for ‘2016’ in sub-
23 paragraph (A)(ii), subparagraph (A) shall be
24 applied by substituting ‘C-CPI-U’ for ‘normal-
25 ized CPI’ in clause (ii).

1 “(3) NORMALIZED CPI.—For purposes of this
2 subsection, the normalized CPI for any calendar
3 year is the product of—

4 “(A) the CPI for such calendar year, mul-
5 tiplied by

6 “(B) the C-CPI-U transition multiple.

7 “(4) C-CPI-U TRANSITION MULTIPLE.—For
8 purposes of this subsection, the term ‘C-CPI-U tran-
9 sition multiple’ means the amount obtained by divid-
10 ing—

11 “(A) the C-CPI-U for calendar year 2016,

12 by

13 “(B) the CPI for calendar year 2016.

14 “(5) C-CPI-U.—For purposes of this sub-
15 section—

16 “(A) IN GENERAL.—The term ‘C-CPI-U’
17 means the Chained Consumer Price Index for
18 All Urban Consumers (as published by the Bu-
19 reau of Labor Statistics of the Department of
20 Labor). The values of the Chained Consumer
21 Price Index for All Urban Consumers taken
22 into account for purposes of determining the
23 cost-of-living adjustment for any calendar year
24 under this subsection shall be the latest values
25 so published as of the date on which such Bu-

1 reau publishes the initial value of the Chained
2 Consumer Price Index for All Urban Con-
3 sumers for the month of August for the pre-
4 ceding calendar year.

5 “(B) DETERMINATION FOR CALENDAR
6 YEAR.—The C-CPI-U for any calendar year is
7 the average of the C-CPI-U as of the close of
8 the 12-month period ending on August 31 of
9 such calendar year.

10 “(6) CPI.—For purposes of this subsection—

11 “(A) IN GENERAL.—The term ‘Consumer
12 Price Index’ means the last Consumer Price
13 Index for All Urban Consumers published by
14 the Department of Labor. For purposes of the
15 preceding sentence, the revision of the Con-
16 sumer Price Index which is most consistent
17 with the Consumer Price Index for calendar
18 year 1986 shall be used.

19 “(B) DETERMINATION FOR CALENDAR
20 YEAR.—The CPI for any calendar year is the
21 average of the Consumer Price Index as of the
22 close of the 12-month period ending on August
23 31 of such calendar year.

24 “(7) DELAY OF ADJUSTMENT BASED ON C-CPI-
25 U UNTIL 2023.—Notwithstanding any other provision

1 of this title, any cost-of-living adjustment deter-
2 mined under this subsection (or by reference to this
3 subsection) shall be determined on the basis of CPI
4 rather than C-CPI-U with respect to periods before
5 January 1, 2023. Proper adjustments shall be made
6 in the application of this subsection to carry out the
7 preceding sentence.

8 “(d) SPECIAL RULES FOR CERTAIN CHILDREN WITH
9 UNEARNED INCOME.—

10 “(1) IN GENERAL.—In the case of any child to
11 whom this subsection applies for any taxable year—

12 “(A) the 25-percent bracket threshold
13 amount shall not be more than the taxable in-
14 come of such child for the taxable year reduced
15 by the net unearned income of such child, and

16 “(B) the 35-percent bracket threshold
17 amount shall not be more than the sum of—

18 “(i) the taxable income of such child
19 for the taxable year reduced by the net un-
20 earned income of such child, plus

21 “(ii) the dollar amount in effect under
22 subsection (b)(2)(D) for the taxable year.

23 “(C) the 39.6-percent bracket threshold
24 amount shall not be more than the sum of—

1 “(i) the taxable income of such child
2 for the taxable year reduced by the net un-
3 earned income of such child, plus

4 “(ii) the dollar amount in effect under
5 subsection (b)(3)(C).

6 “(2) CHILD TO WHOM SUBSECTION APPLIES.—

7 This subsection shall apply to any child for any tax-
8 able year if—

9 “(A) such child—

10 “(i) has not attained age 18 before
11 the close of the taxable year, or

12 “(ii) has attained age 18 before the
13 close of the taxable year and is described
14 in paragraph (3),

15 “(B) either parent of such child is alive at
16 the close of the taxable year, and

17 “(C) such child does not file a joint return
18 for the taxable year.

19 “(3) CERTAIN CHILDREN WHOSE EARNED IN-
20 COME DOES NOT EXCEED ONE-HALF OF INDI-
21 VIDUAL’S SUPPORT.—A child is described in this
22 paragraph if—

23 “(A) such child—

24 “(i) has not attained age 19 before
25 the close of the taxable year, or

1 “(ii) is a student (within the meaning
2 of section 7706(f)(2)) who has not attained
3 age 24 before the close of the taxable year,
4 and

5 “(B) such child’s earned income (as de-
6 fined in section 911(d)(2)) for such taxable
7 year does not exceed one-half of the amount of
8 the individual’s support (within the meaning of
9 section 7706(c)(1)(D) after the application of
10 section 7706(f)(5) (without regard to subpara-
11 graph (A) thereof)) for such taxable year.

12 “(4) NET UNEARNED INCOME.—For purposes
13 of this subsection—

14 “(A) IN GENERAL.—The term ‘net un-
15 earned income’ means the excess of—

16 “(i) the portion of the adjusted gross
17 income for the taxable year which is not
18 attributable to earned income (as defined
19 in section 911(d)(2)), over

20 “(ii) the sum of—

21 “(I) the amount in effect for the
22 taxable year under section 63(c)(2)(A)
23 (relating to limitation on standard de-
24 duction in the case of certain depend-
25 ents), plus

1 “(II) The greater of the amount
2 described in subclause (I) or, if the
3 child itemizes his deductions for the
4 taxable year, the amount of the
5 itemized deductions allowed by this
6 chapter for the taxable year which are
7 directly connected with the production
8 of the portion of adjusted gross in-
9 come referred to in clause (i).

10 “(B) LIMITATION BASED ON TAXABLE IN-
11 COME.—The amount of the net unearned in-
12 come for any taxable year shall not exceed the
13 individual’s taxable income for such taxable
14 year.

15 “(e) PHASEOUT OF 12-PERCENT RATE.—

16 “(1) IN GENERAL.—The amount of tax imposed
17 by this section (determined without regard to this
18 subsection) shall be increased by 6 percent of the ex-
19 cess (if any) of—

20 “(A) adjusted gross income, over

21 “(B) the applicable dollar amount.

22 “(2) LIMITATION.—The increase determined
23 under paragraph (1) with respect to any taxpayer
24 for any taxable year shall not exceed 27.6 percent of
25 the lesser of—

1 “(A) the taxpayer’s taxable income for
2 such taxable year, or

3 “(B) the 25-percent bracket threshold
4 amount in effect with respect to the taxpayer
5 for such taxable year.

6 “(3) APPLICABLE DOLLAR AMOUNT.—For pur-
7 poses of this subsection, the term ‘applicable dollar
8 amount’ means—

9 “(A) in the case of a joint return or a sur-
10 viving spouse, \$1,200,000, and

11 “(B) in the case of any other individual,
12 \$1,000,000.

13 “(4) ESTATES AND TRUSTS.—Paragraph (1)
14 shall not apply in the case of an estate or trust.”.

15 (b) APPLICATION OF CURRENT INCOME TAX BRACK-
16 ETS TO CAPITAL GAINS BRACKETS.—

17 (1) IN GENERAL.—

18 (A) 0-PERCENT CAPITAL GAINS BRACK-
19 ET.—Section 1(h)(1) is amended by striking
20 “which would (without regard to this para-
21 graph) be taxed at a rate below 25 percent” in
22 subparagraph (B)(i) and inserting “below the
23 15-percent rate threshold”.

24 (B) 15-PERCENT CAPITAL GAINS BRACK-
25 ET.—Section 1(h)(1)(C)(ii)(I) is amended by

1 striking “which would (without regard to this
2 paragraph) be taxed at a rate below 39.6 per-
3 cent” and inserting “below the 20-percent rate
4 threshold”.

5 (2) RATE THRESHOLDS DEFINED.—Section
6 1(h) is amended by adding at the end the following
7 new paragraph:

8 “(12) RATE THRESHOLDS DEFINED.—For pur-
9 poses of this subsection—

10 “(A) 15-PERCENT RATE THRESHOLD.—

11 The 15-percent rate threshold shall be—

12 “(i) in the case of a joint return or
13 surviving spouse, \$77,200 ($\frac{1}{2}$ such amount
14 in the case of a married individual filing a
15 separate return),

16 “(ii) in the case of an individual who
17 is the head of a household (as defined in
18 section 2(b)), \$51,700,

19 “(iii) in the case of any other indi-
20 vidual (other than an estate or trust), an
21 amount equal to $\frac{1}{2}$ of the amount in effect
22 for the taxable year under clause (i), and

23 “(iv) in the case of an estate or trust,
24 \$2,600.

1 “(B) 20-PERCENT RATE THRESHOLD.—

2 The 20-percent rate threshold shall be—

3 “(i) in the case of a joint return or
4 surviving spouse, \$479,000 (½ such
5 amount in the case of a married individual
6 filing a separate return),

7 “(ii) in the case of an individual who
8 is the head of a household (as defined in
9 section 2(b)), \$452,400,

10 “(iii) in the case of any other indi-
11 vidual (other than an estate or trust),
12 \$425,800, and

13 “(iv) in the case of an estate or trust,
14 \$12,700.

15 “(C) INFLATION ADJUSTMENT.—In the
16 case of any taxable year beginning after 2018,
17 each of the dollar amounts in subparagraphs
18 (A) and (B) shall be increased by an amount
19 equal to—

20 “(i) such dollar amount, multiplied by

21 “(ii) the cost-of-living adjustment de-
22 termined under subsection (c)(2)(A) for
23 the calendar year in which the taxable year
24 begins, determined by substituting ‘cal-

1 endar year 2017’ for ‘calendar year 2016’
2 in clause (ii) thereof.”.

3 (c) APPLICATION OF SECTION 15.—

4 (1) IN GENERAL.—Subsection (a) of section 15
5 is amended by striking “by this chapter” and insert-
6 ing “by section 11 (or by reference to any such
7 rates)”.

8 (2) CONFORMING AMENDMENTS.—

9 (A) Section 15 is amended by striking sub-
10 sections (d) and (f) and by redesignating sub-
11 section (e) as subsection (d).

12 (B) Section 15(d), as redesignated by sub-
13 paragraph (A), is amended by striking “section
14 1 or 11(b)” and inserting “section 11(b)”.

15 (C) Section 6013(e) is amended by striking
16 “sections 15, 443, and 7851(a)(1)(A)” and in-
17 serting “sections 443 and 7851(a)(1)(A)”.

18 (3) APPLICATION TO THIS ACT.—Section 15 of
19 the Internal Revenue Code of 1986 shall not apply
20 to any change in a rate of tax imposed by chapter
21 1 of such Code which occurs by reason of any
22 amendment made by this Act (other than the
23 amendments made by section 3001).

24 (d) EFFECTIVE DATE.—

1 (1) IN GENERAL.—The amendments made by
2 this section shall apply to taxable years beginning
3 after December 31, 2017.

4 (2) SUBSECTION (c).—The amendments made
5 by subsection (c) shall take effect on the date of the
6 enactment of this Act.

7 **SEC. 1002. ENHANCEMENT OF STANDARD DEDUCTION.**

8 (a) INCREASE IN STANDARD DEDUCTION.—Section
9 63(c) is amended to read as follows:

10 “(c) STANDARD DEDUCTION.—For purposes of this
11 subtitle—

12 “(1) IN GENERAL.—Except as otherwise pro-
13 vided in this subsection, the term ‘standard deduc-
14 tion’ means—

15 “(A) \$24,400, in the case of a joint return
16 (or a surviving spouse (as defined in section
17 2(a)),

18 “(B) three-quarters of the amount in effect
19 under subparagraph (A) for the taxable year, in
20 the case of an unmarried individual with at
21 least one qualifying child (within the meaning
22 of section 7706), and

23 “(C) one-half of the amount in effect
24 under subparagraph (A) for the taxable year, in
25 any other case.

1 “(2) LIMITATION ON STANDARD DEDUCTION IN
2 THE CASE OF CERTAIN DEPENDENTS.—In the case
3 of an individual who is a dependent of another tax-
4 payer for a taxable year beginning in the calendar
5 year in which the individual’s taxable year begins,
6 the standard deduction applicable to such individual
7 for such individual’s taxable year shall not exceed
8 the greater of—

9 “(A) \$500, or

10 “(B) the sum of \$250 and such individ-
11 ual’s earned income (within the means of sec-
12 tion 32).

13 “(3) CERTAIN INDIVIDUALS, ETC., NOT ELIGI-
14 BLE FOR STANDARD DEDUCTION.—In the case of—

15 “(A) a married individual filing a separate
16 return where either spouse itemizes deductions,

17 “(B) a nonresident alien individual,

18 “(C) an individual making a return under
19 section 443(a)(1) for a period of less than 12
20 months on account of a change in his annual
21 accounting period, or

22 “(D) an estate or trust, common trust
23 fund, or partnership,

24 the standard deduction shall be zero.

1 “(4) UNMARRIED INDIVIDUAL.—For purposes
2 of this section, the term ‘unmarried individual’
3 means any individual who—

4 “(A) is not married as of the close of the
5 taxable year (as determined by applying section
6 7703),

7 “(B) is not a surviving spouse (as defined
8 in section 2(a)) for the taxable year, and

9 “(C) is not a dependent of another tax-
10 payer for a taxable year beginning in the cal-
11 endar year in which the individual’s taxable
12 year begins.

13 “(5) INFLATION ADJUSTMENTS.—

14 “(A) STANDARD DEDUCTION AMOUNT.—In
15 the case of any taxable year beginning after
16 2019, the dollar amount in paragraph (1)(A)
17 shall be increased by an amount equal to—

18 “(i) such dollar amount, multiplied by

19 “(ii) the cost-of-living adjustment de-
20 termined under section 1(c)(2)(A) for the
21 calendar year in which the taxable year be-
22 gins, determined by substituting ‘calendar
23 year 2018’ for ‘calendar year 2016’ in
24 clause (ii) thereof.

1 “(B) LIMITATION AMOUNT IN CASE OF
2 CERTAIN DEPENDENTS.—In the case of any
3 taxable year beginning after 2017, each of the
4 dollar amounts in paragraph (2) shall be in-
5 creased by an amount equal to—

6 “(i) such dollar amount, multiplied by

7 “(ii)(I) in the case of the dollar
8 amount in paragraph (2)(A), under section
9 1(c)(2)(A) for the calendar year in which
10 the taxable year begins determined by sub-
11 stituting ‘calendar year 1987’ for ‘calendar
12 year 2016’ in clause (ii) thereof, and

13 “(II) in the case of the dollar amount
14 in paragraph (2)(B), under section
15 1(c)(2)(A) for the calendar year in which
16 the taxable year begins determined by sub-
17 stituting ‘calendar year 1997’ for ‘calendar
18 year 2016’ in clause (ii) thereof.

19 If any increase determined under this paragraph is
20 not a multiple of \$100, such increase shall be round-
21 ed to the next lowest multiple of \$100.”.

22 (b) CONFORMING AMENDMENTS.—

23 (1) Section 63(b) is amended by striking “,
24 minus—” and all that follows and inserting “minus
25 the standard deduction”.

1 (2) Section 63 is amended by striking sub-
2 sections (f) and (g).

3 (3) Section 1398(c) is amended—

4 (A) by striking “BASIC” in the heading
5 thereof,

6 (B) by striking “BASIC STANDARD” in the
7 heading of paragraph (3) and inserting
8 “STANDARD”, and

9 (C) by striking “basic” in paragraph (3).

10 (4) Section 3402(m)(3) is amended by striking
11 “(including the additional standard deduction under
12 section 63(c)(3) for the aged and blind)”.

13 (5) Section 6014(b)(4) is amended by striking
14 “section 63(c)(5)” and inserting “section 63(c)(2)”.

15 (c) EFFECTIVE DATE.—The amendment made by
16 this section shall apply to taxable years beginning after
17 December 31, 2017.

18 **SEC. 1003. REPEAL OF DEDUCTION FOR PERSONAL EXEMP-**
19 **TIONS.**

20 (a) IN GENERAL.—Part V of subchapter B of chapter
21 1 is hereby repealed.

22 (b) DEFINITION OF DEPENDENT RETAINED.—Sec-
23 tion 152, prior to repeal by subsection (a), is hereby reded-
24 icated as section 7706 and moved to the end of chapter
25 79.

1 (c) APPLICATION TO ESTATES AND TRUSTS.—Sub-
2 section (b) of section 642 is amended—

3 (1) by striking paragraph (2)(C),

4 (2) by striking paragraph (3), and

5 (3) by striking “DEDUCTION FOR PERSONAL
6 EXEMPTION” in the heading thereof and inserting
7 “BASIC DEDUCTION”.

8 (d) APPLICATION TO NONRESIDENT ALIENS.—Sec-
9 tion 873(b) is amended by striking paragraph (3).

10 (e) MODIFICATION OF WAGE WITHHOLDING
11 RULES.—

12 (1) IN GENERAL.—Section 3402(a) is amended
13 by striking paragraph (2)

14 (2) CONFORMING AMENDMENT.—Section
15 3402(a) is amended—

16 (A) by redesignating subparagraph (A)
17 and (B) of paragraph (1) as paragraphs (1)
18 and (2) and moving such redesignated para-
19 graphs 2 ems to the left, and

20 (B) by striking all that precedes “other-
21 wise provided in this section” and inserting the
22 following:

23 “(a) REQUIREMENT OF WITHHOLDING.—Except as”.

24 (3) NUMBER OF EXEMPTIONS.—Section
25 3402(f)(1) is amended—

1 (A) in subparagraph (A), by striking “an
2 individual described in section 151(d)(2)” and
3 inserting “a dependent of any other taxpayer”,
4 and

5 (B) in subparagraph (C), by striking “with
6 respect to whom, on the basis of facts existing
7 at the beginning of such day, there may reason-
8 ably be expected to be allowable an exemption
9 under section 151(c)” and inserting “who, on
10 the basis of facts existing at the beginning of
11 such day, is reasonably expected to be a de-
12 pendent of the employee”.

13 (f) MODIFICATION OF RETURN REQUIREMENT.—

14 (1) IN GENERAL.—Paragraph (1) of section
15 6012(a) is amended to read as follows:

16 “(1) Every individual who has gross income for
17 the taxable year, except that a return shall not be
18 required of—

19 “(A) an individual who is not married (de-
20 termined by applying section 7703) and who
21 has gross income for the taxable year which
22 does not exceed the standard deduction applica-
23 ble to such individual for such taxable year
24 under section 63, or

1 “(B) an individual entitled to make a joint
2 return if—

3 “(i) the gross income of such indi-
4 vidual, when combined with the gross in-
5 come of such individual’s spouse, for the
6 taxable year does not exceed the standard
7 deduction which would be applicable to the
8 taxpayer for such taxable year under sec-
9 tion 63 if such individual and such individ-
10 ual’s spouse made a joint return,

11 “(ii) such individual and such individ-
12 ual’s spouse have the same household as
13 their home at the close of the taxable year,

14 “(iii) such individual’s spouse does not
15 make a separate return, and

16 “(iv) neither such individual nor such
17 individual’s spouse is an individual de-
18 scribed in section 63(c)(2) who has income
19 (other than earned income) in excess of the
20 amount in effect under section
21 63(c)(2)(A).”.

22 (2) BANKRUPTCY ESTATES.—Paragraph (8) of
23 section 6012(a) is amended by striking “the sum of
24 the exemption amount plus the basic standard de-
25 duction under section 63(c)(2)(D)” and inserting

1 “the standard deduction in effect under section
2 63(c)(1)(B)”.

3 (g) CONFORMING AMENDMENTS.—

4 (1) Section 2(a)(1)(B) is amended by striking
5 “a dependent” and all that follows through “section
6 151” and inserting “a dependent who (within the
7 meaning of section 7706, determined without regard
8 to subsections (b)(1), (b)(2) and (d)(1)(B) thereof)
9 is a son, stepson, daughter, or stepdaughter of the
10 taxpayer”.

11 (2) Section 36B(b)(2)(A) is amended by strik-
12 ing “section 152” and inserting “section 7706”.

13 (3) Section 36B(b)(3)(B) is amended by strik-
14 ing “unless a deduction is allowed under section 151
15 for the taxable year with respect to a dependent” in
16 the flush matter at the end and inserting “unless
17 the taxpayer has a dependent for the taxable year”.

18 (4) Section 36B(c)(1)(D) is amended by strik-
19 ing “with respect to whom a deduction under section
20 151 is allowable to another taxpayer” and inserting
21 “who is a dependent of another taxpayer”.

22 (5) Section 36B(d)(1) is amended by striking
23 “equal to the number of individuals for whom the
24 taxpayer is allowed a deduction under section 151
25 (relating to allowance of deduction for personal ex-

1 emptions) for the taxable year” and inserting “the
2 sum of 1 (2 in the case of a joint return) plus the
3 number of the taxpayer’s dependents for the taxable
4 year”.

5 (6) Section 36B(e)(1) is amended by striking
6 “1 or more individuals for whom a taxpayer is al-
7 lowed a deduction under section 151 (relating to al-
8 lowance of deduction for personal exemptions) for
9 the taxable year (including the taxpayer or his
10 spouse)” and inserting “1 or more of the taxpayer,
11 the taxpayer’s spouse, or any dependent of the tax-
12 payer”.

13 (7) Section 42(i)(3)(D)(ii)(I) is amended—

14 (A) by striking “section 152” and insert-
15 ing “section 7706”, and

16 (B) by striking the period at the end and
17 inserting a comma.

18 (8) Section 72(t)(2)(D)(i)(III) is amended by
19 striking “section 152” and inserting “section 7706”.

20 (9) Section 72(t)(7)(A)(iii) is amended by strik-
21 ing “section 152(f)(1)” and inserting “section
22 7706(f)(1)”.

23 (10) Section 105(b) is amended—

24 (A) by striking “as defined in section 152”
25 and inserting “as defined in section 7706”,

1 (B) by striking “section 152(f)(1)” and in-
2 serting “section 7706(f)(1)” and

3 (C) by striking “section 152(e)” and in-
4 serting “section 7706(e)”.

5 (11) Section 105(c)(1) is amended by striking
6 “section 152” and inserting “section 7706”.

7 (12) Section 125(e)(1)(D) is amended by strik-
8 ing “section 152” and inserting “section 7706”.

9 (13) Section 132(h)(2)(B) is amended—

10 (A) by striking “section 152(f)(1)” and in-
11 serting “section 7706(f)(1)”, and

12 (B) by striking “section 152(e)” and in-
13 serting “section 7706(e)”.

14 (14) Section 139D(e)(5) is amended by striking
15 “section 152” and inserting “section 7706”.

16 (15) Section 162(l)(1)(D) is amended by strik-
17 ing “section 152(f)(1)” and inserting “section
18 7706(f)(1)”.

19 (16) Section 170(g)(1) is amended by striking
20 “section 152” and inserting “section 7706”.

21 (17) Section 170(g)(3) is amended by striking
22 “section 152(d)(2)” and inserting “section
23 7706(d)(2)”.

24 (18) Section 172(d) is amended by striking
25 paragraph (3).

1 (19) Section 220(b)(6) is amended by striking
2 “with respect to whom a deduction under section
3 151 is allowable to” and inserting “who is a depend-
4 ent of”.

5 (20) Section 220(d)(2)(A) is amended by strik-
6 ing “section 152” and inserting “section 7706”.

7 (21) Section 223(b)(6) is amended by striking
8 “with respect to whom a deduction under section
9 151 is allowable to” and inserting “who is a depend-
10 ent of”.

11 (22) Section 223(d)(2)(A) is amended by strik-
12 ing “section 152” and inserting “section 7706”.

13 (23) Section 401(h) is amended by striking
14 “section 152(f)(1)” in the last sentence and insert-
15 ing “section 7706(f)(1)”.

16 (24) Section 402(l)(4)(D) is amended by strik-
17 ing “section 152” and inserting “section 7706”.

18 (25) Section 409A(a)(2)(B)(ii)(I) is amended
19 by striking “section 152(a)” and inserting “section
20 7706(a)”.

21 (26) Section 501(c)(9) is amended by striking
22 “section 152(f)(1)” and inserting “section
23 7706(f)(1)”.

1 (27) Section 529(e)(2)(B) is amended by strik-
2 ing “section 152(d)(2)” and inserting “section
3 7706(d)(2)”.

4 (28) Section 703(a)(2) is amended by striking
5 subparagraph (A) and by redesignating subpara-
6 graphs (B) through (F) as subparagraphs (A)
7 through (E), respectively.

8 (29) Section 874 is amended by striking sub-
9 section (b) and by redesignating subsection (c) as
10 subsection (b).

11 (30) Section 891 is amended by striking “under
12 section 151 and”.

13 (31) Section 904(b) is amended by striking
14 paragraph (1).

15 (32) Section 931(b)(1) is amended by striking
16 “(other than the deduction under section 151, relat-
17 ing to personal exemptions)”.

18 (33) Section 933 is amended—

19 (A) by striking “(other than the deduction
20 under section 151, relating to personal exemp-
21 tions)” in paragraph (1), and

22 (B) by striking “(other than the deduction
23 for personal exemptions under section 151)” in
24 paragraph (2).

1 (34) Section 1212(b)(2)(B)(ii) is amended to
2 read as follows:

3 “(ii) in the case of an estate or trust,
4 the deduction allowed for such year under
5 section 642(b).”.

6 (35) Section 1361(c)(1)(C) is amended by strik-
7 ing “section 152(f)(1)(C)” and inserting “section
8 7706(f)(1)(C)”.

9 (36) Section 1402(a) is amended by striking
10 paragraph (7).

11 (37) Section 2032A(c)(7)(D) is amended by
12 striking “section 152(f)(2)” and inserting “section
13 7706(f)(2)”.

14 (38) Section 3402(m)(1) is amended by striking
15 “other than the deductions referred to in section
16 151 and”.

17 (39) Section 3402(r)(2) is amended by striking
18 “the sum of—” and all that follows and inserting
19 “the standard deduction in effect under section
20 63(c)(1)(B).”.

21 (40) Section 5000A(b)(3)(A) is amended by
22 striking “section 152” and inserting “section 7706”.

23 (41) Section 5000A(c)(4)(A) is amended by
24 striking “the number of individuals for whom the
25 taxpayer is allowed a deduction under section 151

1 (relating to allowance of deduction for personal ex-
2 emptions) for the taxable year” and inserting “the
3 sum of 1 (2 in the case of a joint return) plus the
4 number of the taxpayer’s dependents for the taxable
5 year”.

6 (42) Section 6013(b)(3)(A) is amended—

7 (A) by striking “had less than the exemp-
8 tion amount of gross income” in clause (ii) and
9 inserting “had no gross income”,

10 (B) by striking “had gross income of the
11 exemption amount or more” in clause (iii) and
12 inserting “had any gross income”, and

13 (C) by striking the flush language fol-
14 lowing clause (iii).

15 (43) Section 6014(b)(4), as amended by the
16 preceding provisions of this Act, is amended by
17 striking “where the taxpayer itemizes his deductions
18 or”.

19 (44) Section 6103(l)(21)(A)(iii) is amended to
20 read as follows:

21 “(iii) the number of the taxpayer’s de-
22 pendents,”.

23 (45) Section 6213(g)(2) is amended by striking
24 subparagraph (H).

1 (46) Section 6334(d)(2) is amended to read as
2 follows:

3 “(2) EXEMPT AMOUNT.—

4 “(A) IN GENERAL.—For purposes of para-
5 graph (1), the term ‘exempt amount’ means an
6 amount equal to—

7 “(i) the standard deduction, divided
8 by

9 “(ii) 52.

10 “(B) VERIFIED STATEMENT.—Unless the
11 taxpayer submits to the Secretary a written and
12 properly verified statement specifying the facts
13 necessary to determine the proper amount
14 under subparagraph (A), subparagraph (A)
15 shall be applied as if the taxpayer were a mar-
16 ried individual filing a separate return with no
17 dependents.”.

18 (47) Section 7702B(f)(2)(C)(iii) is amended by
19 striking “section 152(d)(2)” and inserting “section
20 7706(d)(2)”.

21 (48) Section 7703(a) is amended by striking
22 “part V of subchapter B of chapter 1 and”.

23 (49) Section 7703(b)(1) is amended by striking
24 “section 152(f)(1)” and all that follows and insert-
25 ing “section 7706(f)(1),”.

1 (50) Section 7706(a), as redesignated by this
2 section, is amended by striking “this subtitle” and
3 inserting “subtitle A”.

4 (51)(A) Section 7706(d)(1)(B), as redesignated
5 by this section, is amended by striking “the exemp-
6 tion amount (as defined in section 151(d))” and in-
7 serting “\$4,150”.

8 (B) Section 7706(d), as redesignated by this
9 section, is amended by adding at the end the fol-
10 lowing new paragraph:

11 “(6) INFLATION ADJUSTMENT.—In the case of
12 any calendar year beginning after 2018, the \$4,150
13 amount in paragraph (1)(B) shall be increased by an
14 amount equal to—

15 “(A) such dollar amount, multiplied by

16 “(B) the cost-of-living adjustment deter-
17 mined under section 1(c)(2)(A) for such cal-
18 endar year, determined by substituting ‘cal-
19 endar year 2017’ for ‘calendar year 2016’ in
20 clause (ii) thereof.

21 If any increase determined under the preceding sen-
22 tence is not a multiple of \$100, such increase shall
23 be rounded to the next lowest multiple of \$100.”.

1 (52) The table of sections for chapter 79 is
 2 amended by adding at the end the following new
 3 item:

“Sec. 7706. Dependent defined.”.

4 (h) **EFFECTIVE DATE.**—The amendments made by
 5 this section shall apply to taxable years beginning after
 6 December 31, 2017.

7 **SEC. 1004. MAXIMUM RATE ON BUSINESS INCOME OF INDI-**
 8 **VIDUALS.**

9 (a) **IN GENERAL.**—Part I of subchapter A of chapter
 10 1 is amended by inserting after section 3 the following
 11 new section:

12 **“SEC. 4. 25 PERCENT MAXIMUM RATE ON BUSINESS IN-**
 13 **COME OF INDIVIDUALS.**

14 “(a) **REDUCTION IN TAX TO ACHIEVE 25 PERCENT**
 15 **MAXIMUM RATE.**—The tax imposed by section 1 shall be
 16 reduced by the sum of—

17 “(1) 10 percent of the lesser of—

18 “(A) qualified business income, or

19 “(B) the excess (if any) of—

20 “(i) taxable income reduced by net
 21 capital gain (as defined in section
 22 1(h)(11)(A)), over

23 “(ii) the maximum dollar amount for
 24 the 25-percent rate bracket which applies

1 to the taxpayer under section 1 for the
2 taxable year, and

3 “(2) 4.6 percent of the excess (if any) of—

4 “(A) the lesser of—

5 “(i) qualified business income, or

6 “(ii) the excess (if any) determined
7 under paragraph (1)(B), over

8 “(B) the excess of—

9 “(i) the maximum dollar amount for
10 the 35-percent rate bracket which applies
11 to the taxpayer under section 1 for the
12 taxable year, over

13 “(ii) the maximum dollar amount for
14 the 25-percent rate bracket which applies
15 to the taxpayer under section 1 for the
16 taxable year.

17 “(b) QUALIFIED BUSINESS INCOME.—For purposes
18 of this section, the term ‘qualified business income’ means
19 the excess (if any) of—

20 “(1) the sum of—

21 “(A) 100 percent of any net business in-
22 come derived from any passive business activity,
23 plus

1 “(B) the capital percentage of any net
2 business income derived from any active busi-
3 ness activity, over

4 “(2) the sum of—

5 “(A) 100 percent of any net business loss
6 derived from any passive business activity,

7 “(B) except as provided in subsection
8 (e)(3)(A), 30 percent of any net business loss
9 derived from any active business activity, plus

10 “(C) any carryover business loss deter-
11 mined for the preceding taxable year.

12 “(c) DETERMINATION OF NET BUSINESS INCOME OR
13 LOSS.—For purposes of this section—

14 “(1) IN GENERAL.—Net business income or loss
15 shall be determined with respect to any business ac-
16 tivity by appropriately netting items of income, gain,
17 deduction, and loss with respect to such business ac-
18 tivity.

19 “(2) WAGES, ETC.—Any wages (as defined in
20 section 3401), payments described in subsection (a)
21 or (c) of section 707, or directors’ fees received by
22 the taxpayer which are properly attributable to any
23 business activity shall be taken into account under
24 paragraph (1) as an item of income with respect to
25 such business activity.

1 “(3) EXCEPTION FOR CERTAIN INVESTMENT-
2 RELATED ITEMS.—There shall not be taken into ac-
3 count under paragraph (1)—

4 “(A) any item of short-term capital gain,
5 short-term capital loss, long-term capital gain,
6 or long-term capital loss,

7 “(B) any dividend, income equivalent to a
8 dividend, or payment in lieu of dividends de-
9 scribed in section 954(c)(1)(G),

10 “(C) any interest income other than inter-
11 est income which is properly allocable to a trade
12 or business,

13 “(D) any item of gain or loss described in
14 subparagraph (C) or (D) of section 954(c)(1)
15 (applied by substituting ‘business activity’ for
16 ‘controlled foreign corporation’),

17 “(E) any item of income, gain, deduction,
18 or loss taken into account under section
19 954(c)(1)(F) (determined without regard to
20 clause (ii) thereof and other than items attrib-
21 utable to notional principal contracts entered
22 into in transactions qualifying under section
23 1221(a)(7)),

1 “(F) any amount received from an annuity
2 which is not received in connection with the
3 trade or business of the business activity, and

4 “(G) any item of deduction or loss properly
5 allocable to an amount described in any of the
6 preceding subparagraphs.

7 “(4) APPLICATION OF RESTRICTIONS APPLICA-
8 BLE TO DETERMINING TAXABLE INCOME.—Net busi-
9 ness income or loss shall be appropriately adjusted
10 so as only to take into account any amount of in-
11 come, gain, deduction, or loss to the extent such
12 amount affects the determination of taxable income
13 for the taxable year.

14 “(5) CARRYOVER BUSINESS LOSS.—For pur-
15 poses of subsection (b)(2)(C), the carryover business
16 loss determined for any taxable year is the excess (if
17 any) of the sum described in subsection (b)(2) over
18 the sum described in subsection (b)(1) for such tax-
19 able year.

20 “(d) PASSIVE AND ACTIVE BUSINESS ACTIVITY.—
21 For purposes of this section—

22 “(1) PASSIVE BUSINESS ACTIVITY.—The term
23 ‘passive business activity’ means any passive activity
24 as defined in section 469(c) determined without re-
25 gard to paragraphs (3) and (6)(B) thereof.

1 “(2) ACTIVE BUSINESS ACTIVITY.—The term
2 ‘active business activity’ means any business activity
3 which is not a passive business activity.

4 “(3) BUSINESS ACTIVITY.—The term ‘business
5 activity’ means any activity (within the meaning of
6 section 469) which involves the conduct of any trade
7 or business.

8 “(e) CAPITAL PERCENTAGE.—For purposes of this
9 section—

10 “(1) IN GENERAL.—Except as otherwise pro-
11 vided in this section, the term ‘capital percentage’
12 means 30 percent.

13 “(2) INCREASED PERCENTAGE FOR CAPITAL-IN-
14 TENSIVE BUSINESS ACTIVITIES.—In the case of a
15 taxpayer who elects the application of this paragraph
16 with respect to any active business activity (other
17 than a specified service activity), the capital percent-
18 age shall be equal to the applicable percentage (as
19 defined in subsection (f)) for each taxable year with
20 respect to which such election applies. Any election
21 made under this paragraph shall apply to the tax-
22 able year for which such election is made and each
23 of the 4 subsequent taxable years. Such election
24 shall be made not later than the due date (including
25 extensions) for the return of tax for the taxable year

1 for which such election is made, and, once made,
2 may not be revoked.

3 “(3) TREATMENT OF SPECIFIED SERVICE AC-
4 TIVITIES.—

5 “(A) IN GENERAL.—In the case of any ac-
6 tive business activity which is a specified service
7 activity—

8 “(i) the capital percentage shall be 0
9 percent, and

10 “(ii) subsection (b)(2)(B) shall be ap-
11 plied by substituting ‘0 percent’ for ‘30
12 percent’.

13 “(B) EXCEPTION FOR CAPITAL-INTENSIVE
14 SPECIFIED SERVICE ACTIVITIES.—If—

15 “(i) the taxpayer elects the application
16 of this subparagraph with respect to such
17 activity for any taxable year, and

18 “(ii) the applicable percentage (as de-
19 fined in subsection (f)) with respect to
20 such activity for such taxable year is at
21 least 10 percent,

22 then subparagraph (A) shall not apply and the
23 capital percentage with respect to such activity
24 shall be equal to such applicable percentage.

1 “(C) SPECIFIED SERVICE ACTIVITY.—The
2 term ‘specified service activity’ means any activ-
3 ity involving the performance of services de-
4 scribed in section 1202(e)(3)(A), including in-
5 vesting, trading, or dealing in securities (as de-
6 fined in section 475(c)(2)), partnership inter-
7 ests, or commodities (as defined in section
8 475(e)(2)).

9 “(4) REDUCTION IN CAPITAL PERCENTAGE IN
10 CERTAIN CASES.—The capital percentage (deter-
11 mined after the application of paragraphs (2) and
12 (3)) with respect to any active business activity shall
13 not exceed 1 minus the quotient (not greater than
14 1) of—

15 “(A) any amounts described in subsection
16 (c)(2) which are taken into account in deter-
17 mining the net business income derived from
18 such activity, divided by

19 “(B) such net business income.

20 “(f) APPLICABLE PERCENTAGE.—For purposes of
21 this section—

22 “(1) IN GENERAL.—The term ‘applicable per-
23 centage’ means, with respect to any active business
24 activity for any taxable year, the quotient (not great-
25 er than 1) of—

1 “(A) the specified return on capital with
2 respect to such activity for such taxable year,
3 divided by

4 “(B) the taxpayer’s net business income
5 derived from such activity for such taxable year.

6 “(2) SPECIFIED RETURN ON CAPITAL.—The
7 term ‘specified return on capital’ means, with re-
8 spect to any active business activity referred to in
9 paragraph (1), the excess of—

10 “(A) the product of—

11 “(i) the deemed rate of return for the
12 taxable year, multiplied by

13 “(ii) the asset balance with respect to
14 such activity for such taxable year, over

15 “(B) an amount equal to the interest
16 which is paid or accrued, and for which a de-
17 duction is allowed under this chapter, with re-
18 spect to such activity for such taxable year.

19 “(3) DEEMED RATE OF RETURN.—The term
20 ‘deemed rate of return’ means, with respect to any
21 taxable year, the Federal short-term rate (deter-
22 mined under section 1274(d) for the month in which
23 or with which such taxable year ends) plus 7 per-
24 centage points.

25 “(4) ASSET BALANCE.—

1 “(A) IN GENERAL.—The asset balance
2 with respect to any active business activity re-
3 ferred to in paragraph (1) for any taxable year
4 equals the taxpayer’s adjusted basis of the
5 property used in connection with such activity
6 as of the end of the taxable year (determined
7 without regard to sections 168(k) and 179).

8 “(B) APPLICATION TO ACTIVITIES CAR-
9 RIED ON THROUGH PARTNERSHIPS AND S COR-
10 PORATIONS.—In the case of any active business
11 activity carried on through a partnership or S
12 corporation, the taxpayer shall take into ac-
13 count such taxpayer’s distributive or pro rata
14 share (as the case may be) of the asset balance
15 with respect to such activity as determined
16 under this paragraph with respect to the part-
17 nership’s or S corporation’s adjusted basis of
18 the property used in connection with such activ-
19 ity by the partnership or S corporation.

20 “(g) REGULATIONS.—The Secretary may issue such
21 regulations or other guidance as may be necessary or ap-
22 propriate to carry out the purposes of this section, includ-
23 ing regulations or other guidance—

1 “(1) which ensures that no amount is taken
2 into account under subsection (f)(4) with respect to
3 more than one activity, and

4 “(2) which treats all specified service activities
5 of the taxpayer as a single business activity for pur-
6 poses of this section to the extent that such activi-
7 ties would be treated as a single employer under
8 subsection (a) or (b) of section 52 or subsection (m)
9 or (o) of section 414.

10 “(h) REFERENCES.—Any reference in this title to
11 section 1 shall be treated as including a reference to this
12 section unless the context of such reference clearly indi-
13 cates otherwise.”.

14 (b) 25 PERCENT RATE FOR CERTAIN DIVIDENDS OF
15 REAL ESTATE INVESTMENT TRUSTS AND COOPERA-
16 TIVES.—Section 1(h) is amended by adding at the end the
17 following new paragraph:

18 “(12) 25 PERCENT RATE FOR CERTAIN DIVI-
19 DENDS OF REAL ESTATE INVESTMENT TRUSTS AND
20 COOPERATIVES.—

21 “(A) IN GENERAL.—For purposes of this
22 subsection, net capital gain (as defined in para-
23 graph (11)) and unrecaptured section 1250
24 gain (as defined in paragraph (6)) shall each be
25 increased by specified dividend income.

1 “(B) SPECIFIED DIVIDEND INCOME.—For
2 purposes of this paragraph, the term ‘specified
3 dividend income’ means—

4 “(i) in the case of any dividend re-
5 ceived from a real estate investment trust,
6 the portion of such dividend which is nei-
7 ther—

8 “(I) a capital gain dividend (as
9 defined in section 852(b)(3)), nor

10 “(II) taken into account in deter-
11 mining qualified dividend income (as
12 defined in paragraph (11)), and

13 “(ii) any dividend which is includible
14 in gross income and which is received from
15 an organization or corporation described in
16 section 501(c)(12) or 1381(a).”.

17 (c) NET EARNINGS FROM SELF-EMPLOYMENT.—

18 (1) APPLICATION TO LABOR PERCENTAGE OF
19 DISTRIBUTIVE AND PRO RATA SHARES.—Section
20 1402(a) is amended—

21 (A) by striking “the gross income derived
22 by an individual from any trade or business car-
23 ried on by such individual, less the deductions
24 allowed by this subtitle which are attributable
25 to such trade or business, plus his distributive

1 share (whether or not distributed) of income or
2 loss described in section 702(a)(8) from any
3 trade or business carried on by a partnership of
4 which he is a member” and inserting “the labor
5 percentage of the gross income derived by an
6 individual from any trade or business carried on
7 by such individual, less the labor percentage of
8 the deductions allowed by this subtitle which
9 are attributable to such trade or business, plus
10 the labor percentage of such individual’s dis-
11 tributive share (whether or not distributed) of
12 income or loss described in section 702(a)(8)
13 from any trade or business carried on by a
14 partnership of which such individual is a mem-
15 ber, plus the labor percentage of such individ-
16 ual’s pro rata share (whether or not distrib-
17 uted) of nonseparately computed income or loss
18 (as defined in section 1366(a)(2)) from any
19 trade or business carried on by an S corpora-
20 tion in which such individual is a shareholder”,
21 and

22 (B) by striking “and such distributive
23 share of partnership ordinary income or loss”
24 and inserting “, such distributive share of part-
25 nership ordinary income or loss, and such pro

1 rata share of S corporation nonseparately com-
2 puted income or loss”.

3 (2) LABOR PERCENTAGE.—Section 1402 is
4 amended by adding at the end the following new
5 subsection:

6 “(m) LABOR PERCENTAGE.—

7 “(1) IN GENERAL.—For purposes of this sec-
8 tion, the term ‘labor percentage’ means, with respect
9 to any income or loss, the excess (expressed as a
10 percentage) of 1 minus the capital percentage (ex-
11 pressed as a decimal) with respect to such income or
12 loss.

13 “(2) CAPITAL PERCENTAGE.—For purposes of
14 paragraph (1), the term ‘capital percentage’ means
15 the percentage which applied with respect to such
16 income or loss under section 4(b)(1)(B).

17 “(3) ADJUSTMENT FOR S CORPORATION
18 WAGES.—For purposes of this subsection, proper ad-
19 justment shall be made for wages paid to the tax-
20 payer with respect to any trade or business carried
21 on by an S corporation in which the taxpayer is a
22 shareholder.”.

23 (3) APPLICATION TO RENTAL INCOME.—Section
24 1402(a) is amended by striking paragraph (1).

1 (4) APPLICATION TO LIMITED PARTNERS.—Sec-
2 tion 1402(a) is amended by striking paragraph (13).

3 (d) CLERICAL AMENDMENT.—The table of sections
4 for part I of subchapter A of chapter 1 is amended by
5 inserting after the item relating to section 3 the following
6 new item:

“Sec. 4. 25 percent maximum rate on business income of individuals.”.

7 (e) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to taxable years beginning after
9 December 31, 2017.

10 (f) TRANSITION RULE.—In the case of any taxable
11 year which includes December 31, 2017, the amendment
12 made by subsection (a) shall apply with respect to such
13 taxable year adjusted—

14 (1) so as to apply with respect to the rates of
15 tax in effect under section 1 of the Internal Revenue
16 Code of 1986 with respect to such taxable year (and
17 so as to achieve a 25 percent effective rate of tax
18 on the business income (determined without regard
19 to paragraph (2)) in the same manner as such
20 amendment applies to taxable years beginning after
21 such date with respect to the rates of tax in effect
22 for such years), and

23 (2) by reducing the amount of the reduction in
24 tax (as otherwise determined under paragraph (1))
25 by the amount which bears the same proportion to

1 the amount of such reduction as the number of days
2 in the taxable year which are before January 1,
3 2018, bears to the number of days in the entire tax-
4 able year.

5 **SEC. 1005. CONFORMING AMENDMENTS RELATED TO SIM-**
6 **PLIFICATION OF INDIVIDUAL INCOME TAX**
7 **RATES.**

8 (a) AMENDMENTS RELATED TO MODIFICATION OF
9 INFLATION ADJUSTMENT.—

10 (1) Section 36B(b)(3)(A)(ii)(II) is amended by
11 striking “consumer price index” and inserting “C-
12 CPI-U (as defined in section 1(c))”.

13 (2) Section 41(e)(5)(C) is amended to read as
14 follows:

15 “(C) COST-OF-LIVING ADJUSTMENT DE-
16 FINED.—

17 “(i) IN GENERAL.—The cost-of-living
18 adjustment for any calendar year is the
19 cost-of-living adjustment for such calendar
20 year determined under section 1(c)(2)(A),
21 by substituting ‘calendar year 1987’ for
22 ‘calendar year 2016’ in clause (ii) thereof.

23 “(ii) SPECIAL RULE WHERE BASE PE-
24 RIOD ENDS IN A CALENDAR YEAR OTHER
25 THAN 1983 OR 1984.—If the base period of

1 any taxpayer does not end in 1983 or
2 1984, clause (i) shall be applied by sub-
3 stituting the calendar year in which such
4 base period ends for 1987.”.

5 (3) Section 42(e)(3)(D)(ii) is amended by strik-
6 ing “section 1(f)(3) for such calendar year by sub-
7 stituting ‘calendar year 2008’ for ‘calendar year
8 1992’ in subparagraph (B) thereof” and inserting
9 “section 1(c)(2)(A) for such calendar year by sub-
10 stituting ‘calendar year 2008’ for ‘calendar year
11 2016’ in clause (ii) thereof”.

12 (4) Section 42(h)(3)(H)(i)(II) is amended by
13 striking “section 1(f)(3) for such calendar year by
14 substituting ‘calendar year 2001’ for ‘calendar year
15 1992’ in subparagraph (B) thereof” and inserting
16 “section 1(c)(2)(A) for such calendar year by sub-
17 stituting ‘calendar year 2001’ for ‘calendar year
18 2016’ in clause (ii) thereof”.

19 (5) Section 45R(d)(3)(B)(ii) is amended by
20 striking “section 1(f)(3) for the calendar year, deter-
21 mined by substituting ‘calendar year 2012’ for ‘cal-
22 endar year 1992’ in subparagraph (B) thereof” and
23 inserting “‘section 1(c)(2)(A) for such calendar
24 year, determined by substituting ‘calendar year

1 2012” for “calendar year 2016” in clause (ii) there-
2 of”.

3 (6) Section 125(i)(2) is amended—

4 (A) by striking “section 1(f)(3) for the cal-
5 endar year in which the taxable year begins by
6 substituting ‘calendar year 2012’ for ‘calendar
7 year 1992’ in subparagraph (B) thereof” in
8 subparagraph (B) and inserting “section
9 1(c)(2)(A) for the calendar year in which the
10 taxable year begins”, and

11 (B) by striking “\$50” both places it ap-
12 pears in the last sentence and inserting
13 “\$100”.

14 (7) Section 162(o)(3) is amended by inserting
15 “as in effect before enactment of the Tax Cuts and
16 Jobs Act” after “section 1(f)(5)”.

17 (8) Section 220(g)(2) is amended by striking
18 “section 1(f)(3) for the calendar year in which the
19 taxable year begins by substituting ‘calendar year
20 1997’ for ‘calendar year 1992’ in subparagraph (B)
21 thereof” and inserting “section 1(c)(2)(A) for the
22 calendar year in which the taxable year begins, de-
23 termined by substituting ‘calendar year 1997’ for
24 ‘calendar year 2016’ in clause (ii) thereof”.

1 (9) Section 223(g)(1) is amended by striking all
2 that follows subparagraph (A) and inserting the fol-
3 lowing:

4 “(B) the cost-of-living adjustment deter-
5 mined under section 1(c)(2)(A) for the calendar
6 year in which the taxable year begins, deter-
7 mined—

8 “(i) by substituting for ‘calendar year
9 2016’ in clause (ii) thereof—

10 “(I) except as provided in clause
11 (ii), ‘calendar year 1997’, and

12 “(II) in the case of each dollar
13 amount in subsection (c)(2)(A), ‘cal-
14 endar year 2003’, and

15 “(ii) by substituting ‘March 31’ for
16 ‘August 31’ in paragraphs (5)(B) and
17 (6)(B) of section 1(c).

18 The Secretary shall publish the dollar amounts
19 as adjusted under this subsection for taxable
20 years beginning in any calendar year no later
21 than June 1 of the preceding calendar year.”.

22 (10) Section 430(c)(7)(D)(vii)(II) is amended
23 by striking “section 1(f)(3) for the calendar year,
24 determined by substituting ‘calendar year 2009’ for
25 ‘calendar year 1992’ in subparagraph (B) thereof”

1 and inserting “section 1(c)(2)(A) for the calendar
2 year, determined by substituting ‘calendar year
3 2009’ for ‘calendar year 2016’ in clause (ii) there-
4 of”.

5 (11) Section 512(d)(2)(B) is amended by strik-
6 ing “section 1(f)(3) for the calendar year in which
7 the taxable year begins, by substituting ‘calendar
8 year 1994’ for ‘calendar year 1992’ in subparagraph
9 (B) thereof” and inserting “section 1(c)(2)(A) for the
10 calendar year in which the taxable year begins, de-
11 termined by substituting ‘calendar year 1994’ for
12 ‘calendar year 2016’ in clause (ii) thereof”.

13 (12) Section 513(h)(2)(C)(ii) is amended by
14 striking “section 1(f)(3) for the calendar year in
15 which the taxable year begins by substituting ‘cal-
16 endar year 1987’ for ‘calendar year 1992’ in sub-
17 paragraph (B) thereof” and inserting “section
18 1(c)(2)(A) for the calendar year in which the taxable
19 year begins, determined by substituting ‘calendar
20 year 1987’ for ‘calendar year 2016’ in clause (ii)
21 thereof”.

22 (13) Section 831(b)(2)(D)(ii) is amended by
23 striking “section 1(f)(3) for such calendar year by
24 substituting ‘calendar year 2013’ for ‘calendar year
25 1992’ in subparagraph (B) thereof” and inserting

1 “section 1(c)(2)(A) for such calendar year by sub-
2 stituting ‘calendar year 2013’ for ‘calendar year
3 2016’ in clause (ii) thereof”.

4 (14) Section 877A(a)(3)(B)(i)(II) is amended
5 by striking “section 1(f)(3) for the calendar year in
6 which the taxable year begins, by substituting ‘cal-
7 endar year 2007’ for ‘calendar year 1992’ in sub-
8 paragraph (B) thereof” and inserting “section
9 1(c)(2)(A) for the calendar year in which the taxable
10 year begins, determined by substituting ‘calendar
11 year 2007’ for ‘calendar year 2016’ in clause (ii)
12 thereof”.

13 (15) Section 911(b)(2)(D)(ii)(II) is amended by
14 striking “section 1(f)(3) for the calendar year in
15 which the taxable year begins, determined by sub-
16 stituting ‘2004’ for ‘1992’ in subparagraph (B)
17 thereof” and inserting “section 1(c)(2)(A) for the
18 calendar year in which the taxable year begins, de-
19 termined by substituting ‘calendar year 2004’ for
20 ‘calendar year 2016’ in clause (ii) thereof”.

21 (16) Section 1274A(d)(2) is amended to read
22 as follows:

23 “(2) INFLATION ADJUSTMENT.—

24 “(A) IN GENERAL.—In the case of any
25 debt instrument arising out of a sale or ex-

1 change during any calendar year after 2018,
2 each adjusted dollar amount shall be increased
3 by an amount equal to—

4 “(i) such adjusted dollar amount,
5 multiplied by

6 “(ii) the cost-of-living adjustment de-
7 termined under section 1(c)(2)(A) for such
8 calendar year, determined by substituting
9 ‘calendar year 2017’ for ‘calendar year
10 2016’ in clause (ii) thereof.

11 “(B) ADJUSTED DOLLAR AMOUNTS.—For
12 purposes of this paragraph, the term ‘adjusted
13 dollar amount’ means the dollar amounts in
14 subsections (b) and (c), in each case as in effect
15 for calendar year 2018.

16 “(C) ROUNDING.—Any increase under sub-
17 paragraph (A) shall be rounded to the nearest
18 multiple of \$100.”.

19 (17) Section 2010(c)(3)(B)(ii) is amended by
20 striking “section 1(f)(3) for such calendar year by
21 substituting ‘calendar year 2010’ for ‘calendar year
22 1992’ in subparagraph (B) thereof” and inserting
23 “section 1(c)(2)(A) for such calendar year, deter-
24 mined by substituting ‘calendar year 2010’ for ‘cal-
25 endar year 2016’ in clause (ii) thereof”.

1 (18) Section 2032A(a)(3)(B) is amended by
2 striking “section 1(f)(3) for such calendar year by
3 substituting ‘calendar year 1997’ for ‘calendar year
4 1992’ in subparagraph (B) thereof” and inserting
5 “section 1(c)(2)(A) for such calendar year, deter-
6 mined by substituting ‘calendar year 1997’ for ‘cal-
7 endar year 2016’ in clause (ii) thereof”.

8 (19) Section 2503(b)(2)(B) is amended by
9 striking “section 1(f)(3) for such calendar year by
10 substituting ‘calendar year 1997’ for ‘calendar year
11 1992’ in subparagraph (B) thereof” and inserting
12 “section 1(c)(2)(A) for the calendar year, deter-
13 mined by substituting ‘calendar year 1997’ for ‘cal-
14 endar year 2016’ in clause (ii) thereof”.

15 (20) Section 4161(b)(2)(C)(i)(II) is amended by
16 striking “section 1(f)(3) for such calendar year, de-
17 termined by substituting ‘2004’ for ‘1992’ in sub-
18 paragraph (B) thereof” and inserting “section
19 1(c)(2)(A) for such calendar year, determined by
20 substituting ‘calendar year 2004’ for ‘calendar year
21 2016’ in clause (ii) thereof”.

22 (21) Section 4261(e)(4)(A)(ii) is amended by
23 striking “section 1(f)(3) for such calendar year by
24 substituting the year before the last nonindexed year
25 for ‘calendar year 1992’ in subparagraph (B) there-

1 of” and inserting “section 1(c)(2)(A) for such cal-
2 endar year, determined by substituting the year be-
3 fore the last nonindexed year for ‘calendar year
4 2016’ in clause (ii) thereof”.

5 (22) Section 4980I(b)(3)(C)(v)(II) is amended
6 (A) by striking “section 1(f)(3)” and in-
7 serting “section 1(c)(2)(A)”,
8 (B) by striking “subparagraph (B)” and
9 inserting “clause (ii)”, and
10 (C) by striking “1992” and inserting
11 “2016”.

12 (23) Section 5000A(c)(3)(D)(ii) is amended—
13 (A) by striking “section 1(f)(3)” and in-
14 serting “section 1(c)(2)(A)”,
15 (B) by striking “subparagraph (B)” and
16 inserting “clause (ii)”, and
17 (C) by striking “1992” and inserting
18 “2016”.

19 (24) Section 6039F(d) is amended by striking
20 “section 1(f)(3), except that subparagraph (B)
21 thereof” and inserting “section 1(c)(2)(A), except
22 that clause (ii) thereof”.

23 (25) Section 6323(i)(4)(B) is amended by strik-
24 ing “section 1(f)(3) for the calendar year, deter-
25 mined by substituting ‘calendar year 1996’ for ‘cal-

1 endar year 1992’ in subparagraph (B) thereof” and
2 inserting “section 1(c)(2)(A) for the calendar year,
3 determined by substituting ‘calendar year 1996’ for
4 ‘calendar year 2016’ in clause (ii) thereof”.

5 (26) Section 6334(g)(1)(B) is amended by
6 striking “section 1(f)(3) for such calendar year, by
7 substituting ‘calendar year 1998’ for ‘calendar year
8 1992’ in subparagraph (B) thereof” and inserting
9 “section 1(c)(2)(A) for such calendar year, deter-
10 mined by substituting ‘calendar year 1999’ for ‘cal-
11 endar year 2016’ in clause (ii) thereof”.

12 (27) Section 6601(j)(3)(B) is amended by strik-
13 ing “section 1(f)(3) for such calendar year by sub-
14 stituting ‘calendar year 1997’ for ‘calendar year
15 1992’ in subparagraph (B) thereof” and inserting
16 “section 1(c)(2)(A) for such calendar year by sub-
17 stituting ‘calendar year 1997’ for ‘calendar year
18 2016’ in clause (ii) thereof”.

19 (28) Section 6651(i)(1) is amended by striking
20 “section 1(f)(3) determined by substituting ‘calendar
21 year 2013’ for ‘calendar year 1992’ in subparagraph
22 (B) thereof” and inserting “section 1(c)(2)(A) deter-
23 mined by substituting ‘calendar year 2013’ for ‘cal-
24 endar year 2016’ in clause (ii) thereof”.

25 (29) Section 6721(f)(1) is amended—

1 (A) by striking “section 1(f)(3)” and in-
2 serting “section 1(c)(2)(A)”,

3 (B) by striking “subparagraph (B)” and
4 inserting “clause (ii)”, and

5 (C) by striking “1992” and inserting
6 “2016”.

7 (30) Section 6722(f)(1) is amended—

8 (A) by striking “section 1(f)(3)” and in-
9 serting “section 1(c)(2)(A)”,

10 (B) by striking “subparagraph (B)” and
11 inserting “clause (ii)”, and

12 (C) by striking “1992” and inserting
13 “2016”.

14 (31) Section 6652(c)(7)(A) is amended by strik-
15 ing “section 1(f)(3) determined by substituting ‘cal-
16 endar year 2013’ for ‘calendar year 1992’ in sub-
17 paragraph (B) thereof” and inserting “section
18 1(c)(2)(A) determined by substituting ‘calendar year
19 2013’ for ‘calendar year 2016’ in clause (ii) there-
20 of”.

21 (32) Section 6695(h)(1) is amended by striking
22 “section 1(f)(3) determined by substituting ‘calendar
23 year 2013’ for ‘calendar year 1992’ in subparagraph
24 (B) thereof” and inserting “section 1(c)(2)(A) deter-

1 mined by substituting ‘calendar year 2013’ for ‘cal-
2 endar year 2016’ in clause (ii) thereof”.

3 (33) Section 6698(e)(1) is amended by striking
4 “ section 1(f)(3) determined by substituting ‘cal-
5 endar year 2013’ for ‘calendar year 1992’ in sub-
6 paragraph (B) thereof” and inserting “section
7 1(c)(2)(A) determined by substituting ‘calendar year
8 2013’ for ‘calendar year 2016’ in clause (ii) there-
9 of”.

10 (34) Section 6699(e)(1) is amended by striking
11 “section 1(f)(3) determined by substituting ‘calendar
12 year 2013’ for ‘calendar year 1992’ in subparagraph
13 (B) thereof” and inserting “section 1(c)(2)(A) deter-
14 mined by substituting ‘calendar year 2013’ for ‘cal-
15 endar year 2016’ in clause (ii) thereof”.

16 (35) Section 7345(f)(2) is amended by striking
17 “section 1(f)(3) for the calendar year, determined by
18 substituting ‘calendar year 2015’ for ‘calendar year
19 1992’ in subparagraph (B) thereof” and inserting
20 “section 1(c)(2)(A) for the calendar year, deter-
21 mined by substituting ‘calendar year 2015’ for ‘cal-
22 endar year 2016’ in clause (ii) thereof”.

23 (36) Section 7430(c)(1) is amended by striking
24 “section 1(f)(3) for such calendar year, by sub-
25 stituting ‘calendar year 1995’ for ‘calendar year

1 1992’ in subparagraph (B) thereof” in the flush text
2 at the end and inserting “section 1(c)(2)(A) for such
3 calendar year, determined by substituting ‘calendar
4 year 1995’ for ‘calendar year 2016’ in clause (ii)
5 thereof”.

6 (37) Section 7872(g)(5) is amended to read as
7 follows:

8 “(5) INFLATION ADJUSTMENT.—

9 “(A) IN GENERAL.—In the case of any
10 loan made during any calendar year after 2018
11 to which paragraph (1) applies, the adjusted
12 dollar amount shall be increased by an amount
13 equal to—

14 “(i) such adjusted dollar amount,
15 multiplied by

16 “(ii) the cost-of-living adjustment de-
17 termined under section 1(c)(2)(A) for such
18 calendar year, determined by substituting
19 ‘calendar year 2017’ for ‘calendar year
20 2016’ in clause (ii) thereof.

21 “(B) ADJUSTED DOLLAR AMOUNT.—For
22 purposes of this paragraph, the term ‘adjusted
23 dollar amount’ means the dollar amount in
24 paragraph (2) as in effect for calendar year
25 2018.

1 “(C) ROUNDING.—Any increase under sub-
2 paragraph (A) shall be rounded to the nearest
3 multiple of \$100.”.

4 (b) OTHER CONFORMING AMENDMENTS.—

5 (1) Section 36B(b)(3)(B)(ii)(I)(aa) is amended
6 to read as follows:

7 “(aa) who is described in
8 section 1(b)(1)(B) and who does
9 not have any dependents for the
10 taxable year,”.

11 (2) Section 486B(b)(1) is amended—

12 (A) by striking “maximum rate in effect”
13 and inserting “highest rate specified”, and

14 (B) by striking “section 1(e)” and insert-
15 ing “section 1”.

16 (3) Section 511(b)(1) is amended by striking
17 “section 1(e)” and inserting “section 1”.

18 (4) Section 641(a) is amended by striking “sec-
19 tion 1(e) shall apply to the taxable income” and in-
20 serting “section 1 shall apply to the taxable in-
21 come”.

22 (5) Section 641(c)(2)(A) is amended to read as
23 follows:

24 “(A) Except to the extent provided in sec-
25 tion 1(h), the rate of tax shall be treated as

1 being the highest rate of tax set forth in section
2 1(a).”.

3 (6) Section 646(b) is amended to read as fol-
4 lows:

5 “(b) TAXATION OF INCOME OF TRUST.—Except as
6 provided in subsection (f)(1)(B)(ii), there is hereby im-
7 posed on the taxable income of an electing Settlement
8 Trust a tax at the rate specified in section 1(a)(1). Such
9 tax shall be in lieu of the income tax otherwise imposed
10 by this chapter on such income.”.

11 (7) Section 685(c) is amended by striking “Sec-
12 tion 1(e)” and inserting “Section 1”.

13 (8) Section 904(b)(3)(E)(ii)(I) is amended by
14 striking “set forth in subsection (a), (b), (c), (d), or
15 (e) of section 1 (whichever applies)” and inserting
16 “the highest rate of tax specified in section 1”.

17 (9) Section 1398(c)(2) is amended by striking
18 “subsection (d) of”.

19 (10) Section 3402(p)(1)(B) is amended by
20 striking “any percentage applicable to any of the 3
21 lowest income brackets in the table under section
22 1(c),” and inserting “12 percent, 25 percent,”.

23 (11) Section 3402(q)(1) is amended by striking
24 “the product of third lowest rate of tax applicable

1 under section 1(c) and” and inserting “25 percent
2 of”.

3 (12) Section 3402(r)(3) is amended by striking
4 “the amount of tax which would be imposed by sec-
5 tion 1(c) (determined without regard to any rate of
6 tax in excess of the fourth lowest rate of tax applica-
7 ble under section 1(c)) on an amount of taxable in-
8 come equal to” and inserting “an amount equal to
9 the product of 25 percent multiplied by”.

10 (13) Section 3406(a)(1) is amended by striking
11 “the product of the fourth lowest rate of tax applica-
12 ble under section 1(c) and” and inserting “25 per-
13 cent of”.

14 (14) Section 6103(e)(1)(A)(iii) is amended by
15 striking “section 1(g) (as in effect on the day before
16 the enactment of the Tax Cuts and Jobs Act)”.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to taxable years beginning after
19 December 31, 2017.

1 **Subtitle B—Simplification and Re-**
2 **form of Family and Individual**
3 **Tax Credits**

4 **SEC. 1101. ENHANCEMENT OF CHILD TAX CREDIT AND NEW**
5 **FAMILY TAX CREDIT.**

6 (a) INCREASE IN CREDIT AMOUNT AND ADDITION OF
7 OTHER DEPENDENTS.—

8 (1) IN GENERAL.—Section 24(a) is amended—

9 (A) by striking “qualifying child” and inserting
10 “dependent”,

11 (B) by striking “for which the taxpayer is al-
12 lowed a deduction under section 151”, and

13 (C) by striking “an amount equal to \$1,000.”
14 and inserting the following: “an amount equal to—

15 “(1) in the case of a qualifying child, \$1,600,
16 and

17 “(2) for taxable years beginning before January
18 1, 2023, in the case of the taxpayer (each spouse in
19 the case of a joint return) and any dependent to
20 whom paragraph (1) does not apply, \$300.”.

21 (2) CONFORMING AMENDMENTS.—

22 (A) Section 24(c) is amended—

23 (i) by redesignating paragraphs (1) and

24 (2) as paragraphs (2) and (3), respectively,

1 (ii) by striking “152(c)” in paragraph (2)
2 (as so redesignated) and inserting “7706(c)”,

3 (iii) by inserting before paragraph (2) (as
4 so redesignated) the following new paragraph:

5 “(1) DEPENDENT.—

6 “(A) IN GENERAL.—The term ‘dependent’
7 shall have the meaning given such term by sec-
8 tion 7706.

9 “(B) CERTAIN INDIVIDUALS NOT TREATED
10 AS DEPENDENTS.—In the case of an individual
11 with respect to whom a credit under this section
12 is allowable to another taxpayer for a taxable
13 year beginning in the calendar year in which
14 the individual’s taxable year begins, the amount
15 applicable to such individual under subsection
16 (a) for such individual’s taxable year shall be
17 zero.”,

18 (iv) in paragraph (3) (as so redesign-
19 ated)—

20 (I) by striking “term ‘qualifying
21 child’” and inserting “terms ‘qualifying
22 child’ and ‘dependent’”, and

23 (II) by striking “152(b)(3)” and in-
24 serting “7706(b)(3)”, and

1 (v) in the heading by striking “QUALI-
2 FYING” and inserting “DEPENDENT; QUALI-
3 FYING”

4 (B) The heading for section 24 is amended by
5 inserting “**AND FAMILY**” after “**CHILD**”.

6 (C) The table of sections for subpart A of part
7 IV of subchapter A of chapter 1 is amended by
8 striking the item relating to section 24 and inserting
9 the following new item:

“Sec. 24. Child and dependent tax credit.”.

10 (b) **ELIMINATION OF MARRIAGE PENALTY.**—Section
11 24(b)(2) is amended—

12 (1) by striking “\$110,000” in subparagraph (A) and
13 inserting “\$230,000”,

14 (2) by inserting “and” at the end of subparagraph
15 (A),

16 (3) by striking “\$75,000 in the case of an individual
17 who is not married” and all that follows through the pe-
18 riod at the end and inserting “one-half of the amount in
19 effect under subparagraph (A) for the taxable year in the
20 case of any other individual.”.

21 (c) **CREDIT REFUNDABLE UP TO \$1,000 PER**
22 **CHILD.**—

23 (1) **IN GENERAL.**—Section 24(d)(1)(A) is amended
24 by striking all that follows “under this section” and insert-
25 ing the following: “determined—

1 “(i) without regard to this subsection
2 and the limitation under section 26(a),

3 “(ii) without regard to subsection
4 (a)(2), and

5 “(iii) by substituting ‘\$1,000’ for
6 ‘\$1,600’ in subsection (a)(1), or”.

7 (2) INFLATION ADJUSTMENT.—Section 24(d) is
8 amended by inserting after paragraph (2) the following
9 new paragraph:

10 “(3) INFLATION ADJUSTMENT.—In the case of
11 any taxable year beginning in a calendar year after
12 2017, the \$1,000 amount in paragraph (1)(A)(iii)
13 shall be increased by an amount equal to—

14 “(A) such dollar amount, multiplied by

15 “(B) the cost-of-living adjustment under
16 section 1(c)(2)(A) for such calendar year.

17 Any increase determined under the preceding sen-
18 tence shall be rounded to the next highest multiple
19 of \$100 and shall not exceed the amount in effect
20 under subsection (a)(2).”.

21 (d) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to taxable years beginning after
23 December 31, 2017.

24 **SEC. 1102. REPEAL OF NONREFUNDABLE CREDITS.**

25 (a) REPEAL OF SECTION 22.—

1 (1) IN GENERAL.—Subpart A of part IV of sub-
2 chapter A of chapter 1 is amended by striking sec-
3 tion 22 (and by striking the item relating to such
4 section in the table of sections for such subpart).

5 (2) CONFORMING AMENDMENT.—

6 (A) Section 86(f) is amended by striking
7 paragraph (1) and by redesignating paragraphs
8 (2), (3), and (4) as paragraphs (1), (2), and
9 (3), respectively.

10 (B)(i) Subsections (c)(3)(B) and (d)(4)(A)
11 of section 7706, as redesignated by this Act,
12 are each amended by striking “(as defined in
13 section 22(e)(3))”.

14 (ii) Section 7706(f), as redesignated by
15 this Act, is amended by redesignating para-
16 graph (7) as paragraph (8) and by inserting
17 after paragraph (6) the following new para-
18 graph:

19 “(7) PERMANENT AND TOTAL DISABILITY DE-
20 FINED.—An individual is permanently and totally
21 disabled if he is unable to engage in any substantial
22 gainful activity by reason of any medically deter-
23 minable physical or mental impairment which can be
24 expected to result in death or which has lasted or
25 can be expected to last for a continuous period of

1 not less than 12 months. An individual shall not be
2 considered to be permanently and totally disabled
3 unless he furnishes proof of the existence thereof in
4 such form and manner, and at such times, as the
5 Secretary may require.”.

6 (iii) Section 415(c)(3)(C)(i) is amended by
7 striking “22(e)(3)” and inserting “7706(f)(7)”.

8 (iv) Section 422(c)(6) is amended by strik-
9 ing “22(e)(3)” and inserting “7706(f)(7)”.

10 (b) REPEAL OF SECTION 23.—Subpart A of part IV
11 of subchapter A of chapter 1 is amended by striking sec-
12 tion 23 (and by striking the item relating to such section
13 in the table of sections for such subpart).

14 (c) TERMINATION OF SECTION 25.—Section 25, as
15 amended by section 3601, is amended by adding at the
16 end the following new subsection:

17 “(k) TERMINATION.—No credit shall be allowed
18 under this section with respect to any mortgage credit cer-
19 tificate issued after December 31, 2017.”.

20 (d) REPEAL OF SECTION 30D.—

21 (1) IN GENERAL.—Subpart B of part IV of
22 subchapter A of chapter 1 is amended by striking
23 section 30D (and by striking the item relating to
24 such section in the table of sections for such sub-
25 part).

1 (2) CONFORMING AMENDMENTS.—

2 (A) Section 38(b) is amended by striking
3 paragraph (35).

4 (B) Section 1016(a) is amended by strik-
5 ing paragraph (37).

6 (C) Section 6501(m) is amended by strik-
7 ing “30D(e)(4),”.

8 (e) EFFECTIVE DATE.—

9 (1) IN GENERAL.—Except as provided in para-
10 graphs (2) and (3), the amendments made by this
11 section shall apply to taxable years beginning after
12 December 31, 2017.

13 (2) SUBSECTION (e).—The amendment made
14 by subsection (e) shall apply to taxable years ending
15 after December 31, 2017.

16 (3) SUBSECTION (d).—The amendments made
17 by subsection (d) shall apply to vehicles placed in
18 service in taxable years beginning after December
19 31, 2017.

20 **SEC. 1103. REFUNDABLE CREDIT PROGRAM INTEGRITY.**

21 (a) SOCIAL SECURITY NUMBER REQUIRED TO CLAIM
22 THE REFUNDABLE PORTION OF THE CHILD TAX CRED-
23 IT.—

24 (1) IN GENERAL.—Section 24(d), as amended
25 by the preceding provisions of this Act, is amended

1 by redesignating paragraph (5) as paragraph (4)
2 and by adding at the end the following new para-
3 graph:

4 “(5) IDENTIFICATION REQUIREMENT.—

5 “(A) IN GENERAL.—Paragraph (1) shall
6 not apply to any taxpayer for any taxable year
7 unless the taxpayer includes the taxpayer’s so-
8 cial security number on the return of tax for
9 such taxable year.

10 “(B) JOINT RETURNS.—In the case of a
11 joint return, the requirement of subparagraph
12 (A) shall be treated as met if the social security
13 number of either spouse is included on such re-
14 turn.

15 “(C) SOCIAL SECURITY NUMBER.—For
16 purposes of this paragraph, the term ‘social se-
17 curity number’ means a social security number
18 issued to an individual by the Social Security
19 Administration (but only if the social security
20 number is issued to a citizen of the United
21 States or pursuant to subclause (I) (or that
22 portion of subclause (III) that relates to sub-
23 clause (I)) of section 205(c)(2)(B)(i) of the So-
24 cial Security Act).”.

1 (2) OMISSIONS TREATED AS MATHEMATICAL OR
2 CLERICAL ERROR.—

3 (A) IN GENERAL.—Section 6213(g)(2)(I)
4 is amended to read as follows:

5 “(I) an omission of a correct social secu-
6 rity number required under section 24(d)(5)
7 (relating to refundable portion of child tax cred-
8 it), or a correct TIN required under section
9 24(e) (relating to child tax credit), to be in-
10 cluded on a return.”.

11 (3) CLERICAL AMENDMENT.—The heading for
12 section 24(e) is amended by striking “IDENTIFICA-
13 TION REQUIREMENTS” and inserting “GENERAL
14 IDENTIFICATION REQUIREMENTS”.

15 (b) SOCIAL SECURITY NUMBER MUST BE PRO-
16 VIDED.—

17 (1) IN GENERAL.—Section 25A(f)(1)(A), as
18 amended by section 1201 of this Act, is amended by
19 striking “taxpayer identification number” each place
20 it appears and inserting “social security number”.

21 (2) OMISSION TREATED AS MATHEMATICAL OR
22 CLERICAL ERROR.—Section 6213(g)(2)(J) is amend-
23 ed by striking “TIN” and inserting “social security
24 number and employer identification number”.

1 (c) INDIVIDUALS PROHIBITED FROM ENGAGING IN
2 EMPLOYMENT IN UNITED STATES NOT ELIGIBLE FOR
3 EARNED INCOME TAX CREDIT.—Section 32(m) is amend-
4 ed—

5 (1) by striking “(other than:” and all that fol-
6 lows through “of the Social Security Act)”, and

7 (2) by inserting before the period at the end the
8 following: “, but only if, in the case of subsection
9 (c)(1)(E), the social security number is issued to a
10 citizen of the United States or pursuant to subclause
11 (I) (or that portion of subclause (III) that relates to
12 subclause (I)) of section 205(c)(2)(B)(i) of the So-
13 cial Security Act”.

14 (d) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to taxable years beginning after
16 December 31, 2017.

17 **Subtitle C—Simplification and** 18 **Reform of Education Incentives**

19 **SEC. 1201. AMERICAN OPPORTUNITY TAX CREDIT.**

20 (a) IN GENERAL.—Section 25A is amended to read
21 as follows:

22 **“SEC. 25A. AMERICAN OPPORTUNITY TAX CREDIT.**

23 “(a) IN GENERAL.—In the case of an individual,
24 there shall be allowed as a credit against the tax imposed

1 by this chapter for the taxable year an amount equal to
2 the sum of—

3 “(1) 100 percent of so much of the qualified
4 tuition and related expenses paid by the taxpayer
5 during the taxable year (for education furnished to
6 any eligible student for whom an election is in effect
7 under this section for such taxable year during any
8 academic period beginning in such taxable year) as
9 does not exceed \$2,000, plus

10 “(2) 25 percent of so much of such expenses so
11 paid as exceeds the dollar amount in effect under
12 paragraph (1) but does not exceed twice such dollar
13 amount.

14 “(b) PORTION OF CREDIT REFUNDABLE.—40 per-
15 cent of the credit allowable under subsection (a)(1) (deter-
16 mined without regard to this subsection and section 26(a)
17 and after application of all other provisions of this section)
18 shall be treated as a credit allowable under subpart C (and
19 not under this part). The preceding sentence shall not
20 apply to any taxpayer for any taxable year if such tax-
21 payer is a child to whom section 1(d) applies for such tax-
22 able year.

23 “(c) LIMITATION BASED ON MODIFIED ADJUSTED
24 GROSS INCOME.—

1 “(1) IN GENERAL.—The amount allowable as a
2 credit under subsection (a) for any taxable year shall
3 be reduced (but not below zero) by an amount which
4 bears the same ratio to the amount so allowable (de-
5 termined without regard to this subsection and sub-
6 section (b) but after application of all other provi-
7 sions of this section) as—

8 “(A) the excess of—

9 “(i) the taxpayer’s modified adjusted
10 gross income for such taxable year, over

11 “(ii) \$80,000 (twice such amount in
12 the case of a joint return), bears to

13 “(B) \$10,000 (twice such amount in the
14 case of a joint return).

15 “(2) MODIFIED ADJUSTED GROSS INCOME.—

16 For purposes of this subsection, the term ‘modified
17 adjusted gross income’ means the adjusted gross in-
18 come of the taxpayer for the taxable year increased
19 by any amount excluded from gross income under
20 section 911, 931, or 933.

21 “(d) OTHER LIMITATIONS.—

22 “(1) CREDIT ALLOWED ONLY FOR 5 TAXABLE
23 YEARS.—An election to have this section apply may
24 not be made for any taxable year if such an election
25 (by the taxpayer or any other individual) is in effect

1 with respect to such student for any 5 prior taxable
2 years.

3 “(2) CREDIT ALLOWED ONLY FOR FIRST 5
4 YEARS OF POSTSECONDARY EDUCATION.—

5 “(A) IN GENERAL.—No credit shall be al-
6 lowed under subsection (a) for a taxable year
7 with respect to the qualified tuition and related
8 expenses of an eligible student if the student
9 has completed (before the beginning of such
10 taxable year) the first 5 years of postsecondary
11 education at an eligible educational institution.

12 “(B) FIFTH YEAR LIMITATIONS.—In the
13 case of an eligible student with respect to whom
14 an election has been in effect for 4 preceding
15 taxable years for purposes of the fifth taxable
16 year—

17 “(i) the amount of the credit allowed
18 under this section for the taxable year
19 shall not exceed an amount equal to 50
20 percent of the credit otherwise determined
21 with respect to such student under this
22 section (without regard to this subpara-
23 graph), and

24 “(ii) the amount of the credit deter-
25 mined under subsection (b) and allowable

1 under subpart C shall not exceed an
2 amount equal to 40 percent of the amount
3 determined with respect to such student
4 under clause (i).

5 “(e) DEFINITIONS.—For purposes of this section—

6 “(1) ELIGIBLE STUDENT.—The term ‘eligible
7 student’ means, with respect to any academic period,
8 a student who—

9 “(A) meets the requirements of section
10 484(a)(1) of the Higher Education Act of 1965
11 (20 U.S.C. 1091(a)(1)), as in effect on August
12 5, 1997, and

13 “(B) is carrying at least $\frac{1}{2}$ the normal
14 full-time work load for the course of study the
15 student is pursuing.

16 “(2) QUALIFIED TUITION AND RELATED EX-
17 PENSES.—

18 “(A) IN GENERAL.—The term ‘qualified
19 tuition and related expenses’ means tuition,
20 fees, and course materials, required for enroll-
21 ment or attendance of—

22 “(i) the taxpayer,

23 “(ii) the taxpayer’s spouse, or

24 “(iii) any dependent of the taxpayer,

1 at an eligible educational institution for courses
2 of instruction of such individual at such institu-
3 tion.

4 “(B) EXCEPTION FOR EDUCATION INVOLV-
5 ING SPORTS, ETC.—Such term does not include
6 expenses with respect to any course or other
7 education involving sports, games, or hobbies,
8 unless such course or other education is part of
9 the individual’s degree program.

10 “(C) EXCEPTION FOR NONACADEMIC
11 FEES.—Such term does not include student ac-
12 tivity fees, athletic fees, insurance expenses, or
13 other expenses unrelated to an individual’s aca-
14 demic course of instruction.

15 “(3) ELIGIBLE EDUCATIONAL INSTITUTION.—
16 The term ‘eligible educational institution’ means an
17 institution—

18 “(A) which is described in section 481 of
19 the Higher Education Act of 1965 (20 U.S.C.
20 1088), as in effect on August 5, 1997, and

21 “(B) which is eligible to participate in a
22 program under title IV of such Act.

23 “(f) SPECIAL RULES.—

24 “(1) IDENTIFICATION REQUIREMENTS.—

1 “(A) STUDENT.—No credit shall be al-
2 lowed under subsection (a) to a taxpayer with
3 respect to the qualified tuition and related ex-
4 penses of an individual unless the taxpayer in-
5 cludes the name and taxpayer identification
6 number of such individual on the return of tax
7 for the taxable year, and such taxpayer identi-
8 fication number was issued on or before the due
9 date for filing such return.

10 “(B) TAXPAYER.—No credit shall be al-
11 lowed under this section if the identifying num-
12 ber of the taxpayer was issued after the due
13 date for filing the return for the taxable year.

14 “(C) INSTITUTION.—No credit shall be al-
15 lowed under this section unless the taxpayer in-
16 cludes the employer identification number of
17 any institution to which qualified tuition and
18 related expenses were paid with respect to the
19 individual.

20 “(2) ADJUSTMENT FOR CERTAIN SCHOLAR-
21 SHIPS, ETC.—The amount of qualified tuition and
22 related expenses otherwise taken into account under
23 subsection (a) with respect to an individual for an
24 academic period shall be reduced (before the applica-
25 tion of subsection (c)) by the sum of any amounts

1 paid for the benefit of such individual which are allo-
2 cable to such period as—

3 “(A) a qualified scholarship which is ex-
4 cludable from gross income under section 117,

5 “(B) an educational assistance allowance
6 under chapter 30, 31, 32, 34, or 35 of title 38,
7 United States Code, or under chapter 1606 of
8 title 10, United States Code, and

9 “(C) a payment (other than a gift, be-
10 quest, devise, or inheritance within the meaning
11 of section 102(a)) for such individual’s edu-
12 cational expenses, or attributable to such indi-
13 vidual’s enrollment at an eligible educational in-
14 stitution, which is excludable from gross income
15 under any law of the United States.

16 “(3) TREATMENT OF EXPENSES PAID BY DE-
17 PENDENT.—If an individual is a dependent of an-
18 other taxpayer for a taxable year beginning in the
19 calendar year in which such individuals taxable year
20 begins—

21 “(A) no credit shall be allowed under sub-
22 section (a) to such individual for such individ-
23 ual’s taxable year, and

24 “(B) qualified tuition and related expenses
25 paid by such individual during such individual’s

1 taxable year shall be treated for purposes of
2 this section as paid by such other taxpayer.

3 “(4) TREATMENT OF CERTAIN PREPAY-
4 MENTS.—If qualified tuition and related expenses
5 are paid by the taxpayer during a taxable year for
6 an academic period which begins during the first 3
7 months following such taxable year, such academic
8 period shall be treated for purposes of this section
9 as beginning during such taxable year.

10 “(5) DENIAL OF DOUBLE BENEFIT.—No credit
11 shall be allowed under this section for any amount
12 for which a deduction is allowed under any other
13 provision of this chapter.

14 “(6) NO CREDIT FOR MARRIED INDIVIDUALS
15 FILING SEPARATE RETURNS.—If the taxpayer is a
16 married individual (within the meaning of section
17 7703), this section shall apply only if the taxpayer
18 and the taxpayer’s spouse file a joint return for the
19 taxable year.

20 “(7) NONRESIDENT ALIENS.—If the taxpayer is
21 a nonresident alien individual for any portion of the
22 taxable year, this section shall apply only if such in-
23 dividual is treated as a resident alien of the United
24 States for purposes of this chapter by reason of an
25 election under subsection (g) or (h) of section 6013.

1 “(8) RESTRICTIONS ON TAXPAYERS WHO IM-
2 PROPERLY CLAIMED CREDIT IN PRIOR YEAR.—

3 “(A) TAXPAYERS MAKING PRIOR FRAUDU-
4 LENT OR RECKLESS CLAIMS.—

5 “(i) IN GENERAL.—No credit shall be
6 allowed under this section for any taxable
7 year in the disallowance period.

8 “(ii) DISALLOWANCE PERIOD.—For
9 purposes of clause (i), the disallowance pe-
10 riod is—

11 “(I) the period of 10 taxable
12 years after the most recent taxable
13 year for which there was a final deter-
14 mination that the taxpayer’s claim of
15 credit under this section was due to
16 fraud, and

17 “(II) the period of 2 taxable
18 years after the most recent taxable
19 year for which there was a final deter-
20 mination that the taxpayer’s claim of
21 credit under this section was due to
22 reckless or intentional disregard of
23 rules and regulations (but not due to
24 fraud).

1 “(B) TAXPAYERS MAKING IMPROPER
2 PRIOR CLAIMS.—In the case of a taxpayer who
3 is denied credit under this section for any tax-
4 able year as a result of the deficiency proce-
5 dures under subchapter B of chapter 63, no
6 credit shall be allowed under this section for
7 any subsequent taxable year unless the taxpayer
8 provides such information as the Secretary may
9 require to demonstrate eligibility for such cred-
10 it.

11 “(g) INFLATION ADJUSTMENT.—

12 “(1) IN GENERAL.—In the case of a taxable
13 year beginning after 2018, the \$80,000 amount in
14 subsection (c)(1)(A)(ii) shall each be increased by an
15 amount equal to—

16 “(A) such dollar amount, multiplied by

17 “(B) the cost-of-living adjustment deter-
18 mined under section 1(c)(2)(A) for the calendar
19 year in which the taxable year begins, deter-
20 mined by substituting ‘calendar year 2017’ for
21 ‘calendar year 2016’ in clause (ii) thereof.

22 “(2) ROUNDING.—If any amount as adjusted
23 under paragraph (1) is not a multiple of \$1,000,
24 such amount shall be rounded to the next lowest
25 multiple of \$1,000.

1 “(h) REGULATIONS.—The Secretary may prescribe
2 such regulations or other guidance as may be necessary
3 or appropriate to carry out this section, including regula-
4 tions providing for a recapture of the credit allowed under
5 this section in cases where there is a refund in a subse-
6 quent taxable year of any amount which was taken into
7 account in determining the amount of such credit.”.

8 (b) CONFORMING AMENDMENTS.—

9 (1) Section 72(t)(7)(B) is amended by striking
10 “section 25A(g)(2)” and inserting “section
11 25A(f)(2)”.

12 (2) Section 529(c)(3)(B)(v)(I) is amended by
13 striking “section 25A(g)(2)” and inserting “section
14 25A(f)(2)”.

15 (3) Section 529(e)(3)(B)(i) is amended by strik-
16 ing “section 25A(b)(3)” and inserting “section
17 25A(d)”.

18 (4) Section 530(d)(2)(C) is amended—

19 (A) by striking “section 25A(g)(2)” in
20 clause (i)(I) and inserting “section 25A(f)(2)”,
21 and

22 (B) by striking “HOPE AND LIFETIME
23 LEARNING CREDITS” in the heading and insert-
24 ing “AMERICAN OPPORTUNITY TAX CREDIT”.

1 (5) Section 530(d)(4)(B)(iii) is amended by
2 striking “section 25A(g)(2)” and inserting “section
3 25A(d)(4)(B)”.

4 (6) Section 6050S(e) is amended by striking
5 “subsection (g)(2)” and inserting “subsection
6 (f)(2)”.

7 (7) Section 6211(b)(4)(A) is amended by strik-
8 ing “subsection (i)(6)” and inserting “subsection
9 (b)”.

10 (8) Section 6213(g)(2)(J) is amended by strik-
11 ing “TIN required under section 25A(g)(1)” and in-
12 serting “TIN, and employer identification number,
13 required under section 25A(f)(1)”.

14 (9) Section 6213(g)(2)(Q) is amended to read
15 as follows:

16 “(Q) an omission of information required
17 by section 25A(f)(8)(B) or an entry on the re-
18 turn claiming the credit determined under sec-
19 tion 25A(a) for a taxable year for which the
20 credit is disallowed under section
21 25A(f)(8)(A).”.

22 (10) Section 1004(c) of division B of the Amer-
23 ican Recovery and Reinvestment Tax Act of 2009 is
24 amended—

25 (A) in paragraph (1)—

1 (i) by striking “section 25A(i)(6)”
2 each place it appears and inserting “sec-
3 tion 25A(b)”, and

4 (ii) by striking “with respect to tax-
5 able years beginning after 2008 and before
6 2018” each place it appears and inserting
7 “with respect to each taxable year”,

8 (B) in paragraph (2), by striking “Section
9 25A(i)(6)” and inserting “Section 25A(b)”, and

10 (C) in paragraph (3)(C), by striking “sub-
11 section (i)(6)” and inserting “subsection (b)”.

12 (11) The table of sections for subpart A of part
13 IV of subchapter A of chapter 1 is amended by
14 striking the item relating to section 25A and insert-
15 ing the following new item:

“Sec. 25A. American opportunity tax credit.”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to taxable years beginning after
18 December 31, 2017.

19 **SEC. 1202. CONSOLIDATION OF EDUCATION SAVINGS**
20 **RULES.**

21 (a) NO NEW CONTRIBUTIONS TO COVERDELL EDU-
22 CATION SAVINGS ACCOUNT.—Section 530(b)(1)(A) is
23 amended to read as follows:

1 “(A) Except in the case of rollover con-
2 tributions, no contribution will be accepted after
3 December 31, 2017.”.

4 (b) LIMITED DISTRIBUTION ALLOWED FOR ELEMEN-
5 TARY AND SECONDARY TUITION.—

6 (1) IN GENERAL.—Section 529(e) is amended
7 by adding at the end the following new paragraph:

8 “(7) TREATMENT OF ELEMENTARY AND SEC-
9 ONDARY TUITION.—Any reference in this subsection
10 to the term ‘qualified higher education expense’ shall
11 include a reference to expenses for tuition in connec-
12 tion with enrollment at an elementary or secondary
13 school.”.

14 (2) LIMITATION.—Section 529(e)(3)(A) is
15 amended by adding at the end the following: “The
16 amount of cash distributions from all qualified tui-
17 tion programs described in subsection (b)(1)(A)(ii)
18 with respect to a beneficiary during any taxable
19 year, shall, in the aggregate, include not more than
20 \$10,000 in expenses for tuition incurred during the
21 taxable year in connection with the enrollment or at-
22 tendance of the beneficiary as an elementary or sec-
23 ondary school student at a public, private, or reli-
24 gious school.”.

1 (c) ROLLOVERS TO QUALIFIED TUITION PROGRAMS
2 PERMITTED.—Section 530(d)(5) is amended by inserting
3 “, or into (by purchase or contribution) a qualified tuition
4 program (as defined in section 529),” after “into another
5 Coverdell education savings account”.

6 (d) DISTRIBUTIONS FROM QUALIFIED TUITION PRO-
7 GRAMS FOR CERTAIN EXPENSES ASSOCIATED WITH REG-
8 ISTERED APPRENTICESHIP PROGRAMS.—Section
9 529(e)(3) is amended by adding at the end the following
10 new subparagraph:

11 “(C) CERTAIN EXPENSES ASSOCIATED
12 WITH REGISTERED APPRENTICESHIP PRO-
13 GRAMS.—The term ‘qualified higher education
14 expenses’ shall include books, supplies, and
15 equipment required for the enrollment or at-
16 tendance of a designated beneficiary in an ap-
17 prenticeship program registered and certified
18 with the Secretary of Labor under section 1 of
19 the National Apprenticeship Act (29 U.S.C.
20 50).”.

21 (e) UNBORN CHILDREN ALLOWED AS ACCOUNT
22 BENEFICIARIES.—Section 529(e) is amended by adding at
23 the end the following new paragraph:

24 “(6) TREATMENT OF UNBORN CHILDREN.—

1 is amended by adding at the end the following new para-
2 graph:

3 “(5) DISCHARGES ON ACCOUNT OF DEATH OR
4 DISABILITY.—

5 “(A) IN GENERAL.—In the case of an indi-
6 vidual, gross income does not include any
7 amount which (but for this subsection) would
8 be includible in gross income by reasons of the
9 discharge (in whole or in part) of any loan de-
10 scribed in subparagraph (B) if such discharge
11 was—

12 “(i) pursuant to subsection (a) or (d)
13 of section 437 of the Higher Education
14 Act of 1965 or the parallel benefit under
15 part D of title IV of such Act (relating to
16 the repayment of loan liability),

17 “(ii) pursuant to section 464(c)(1)(F)
18 of such Act, or

19 “(iii) otherwise discharged on account
20 of the death or total and permanent dis-
21 ability of the student.

22 “(B) LOANS DESCRIBED.—A loan is de-
23 scribed in this subparagraph if such loan is—

24 “(i) a student loan (as defined in
25 paragraph (2)), or

1 “(ii) a private education loan (as de-
2 fined in section 140(7) of the Consumer
3 Credit Protection Act (15 U.S.C.
4 1650(7))).”.

5 (b) EXCLUSION FROM GROSS INCOME FOR PAY-
6 MENTS MADE UNDER INDIAN HEALTH SERVICE LOAN
7 REPAYMENT PROGRAM.—

8 (1) IN GENERAL.—Section 108(f)(4) is amend-
9 ed by inserting “under section 108 of the Indian
10 Health Care Improvement Act,” after “338I of such
11 Act,”.

12 (2) CLERICAL AMENDMENT.—The heading for
13 section 108(f)(4) is amended by striking “AND CER-
14 TAIN” and inserting “, INDIAN HEALTH SERVICE
15 LOAN REPAYMENT PROGRAM, AND CERTAIN”.

16 (c) EFFECTIVE DATES.—

17 (1) SUBSECTION (a).—The amendment made
18 by subsection (a)(1) shall apply to discharges of in-
19 debtedness after December 31, 2017.

20 (2) SUBSECTION (b).—The amendments made
21 by subsection (b) shall apply to amounts received in
22 taxable years beginning after December 31, 2017.

1 **SEC. 1204. REPEAL OF OTHER PROVISIONS RELATING TO**
2 **EDUCATION.**

3 (a) IN GENERAL.—Subchapter B of chapter 1 is
4 amended—

5 (1) in part VII by striking sections 221 and
6 222 (and by striking the items relating to such sec-
7 tions in the table of sections for such part),

8 (2) in part VII by striking sections 135 and
9 127 (and by striking the items relating to such sec-
10 tions in the table of sections for such part), and

11 (3) by striking subsection (d) of section 117.

12 (b) CONFORMING AMENDMENT RELATING TO SEC-
13 TION 221.—

14 (1) Section 62(a) is amended by striking para-
15 graph (17).

16 (2) Section 163(h)(2) is amended by striking
17 subparagraph (F).

18 (3) Section 6050S(a) is amended—

19 (A) by inserting “or” at the end of para-
20 graph (1),

21 (B) by striking “or” at the end of para-
22 graph (2), and

23 (C) by striking paragraph (3).

24 (4) Section 6050S(e) is amended by striking all
25 that follows “thereof” and inserting a period.

1 (c) CONFORMING AMENDMENT RELATING TO SEC-
2 TION 222.—Section 62(a) is amended by striking para-
3 graph (18).

4 (d) CONFORMING AMENDMENTS RELATING TO SEC-
5 TION 127.—

6 (1) Section 125(f)(1) is amended by striking
7 “127,”.

8 (2) Section 132(j)(8) is amended by striking
9 “which are not excludable from gross income under
10 section 127”.

11 (3) Section 414(n)(3)(C) is amended by strik-
12 ing “127,”.

13 (4) Section 414(t)(2) is amended by striking
14 “127,”.

15 (5) Section 3121(a)(18) is amended by striking
16 “127,”.

17 (6) Section 3231(e) is amended by striking
18 paragraph (6).

19 (7) Section 3306(b)(13) is amended by “127,”.

20 (8) Section 3401(a)(18) is amended by striking
21 “127,”.

22 (9) Section 6039D(d)(1) is amended by striking
23 “, 127”.

24 (e) CONFORMING AMENDMENTS RELATING TO SEC-
25 TION 117(d).—

1 (1) Section 117(c)(1) is amended—

2 (A) by striking “subsections (a) and (d)”

3 and inserting “subsection (a)”, and

4 (B) by striking “or qualified tuition reduc-
5 tion”.

6 (2) Section 414(n)(3)(C) is amended by strik-
7 ing “117(d),”.

8 (3) Section 414(t)(2) is amended by striking
9 “117(d),”.

10 (f) EFFECTIVE DATES.—

11 (1) IN GENERAL.—Except as otherwise pro-
12 vided in this subsection, the amendments made by
13 this section shall apply to taxable years beginning
14 after December 31, 2017.

15 (2) AMENDMENTS RELATING TO SECTION
16 117(d).—The amendments made by subsections
17 (a)(3) and (e) shall apply to amounts paid or in-
18 curred after December 31, 2017.

19 **Subtitle D—Simplification and** 20 **Reform of Deductions**

21 **SEC. 1301. REPEAL OF OVERALL LIMITATION ON ITEMIZED** 22 **DEDUCTIONS.**

23 (a) IN GENERAL.—Part 1 of subchapter B of chapter
24 1 is amended by striking section 68 (and the item relating
25 to such section in the table of sections for such part).

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2017.

4 **SEC. 1302. MORTGAGE INTEREST.**

5 (a) MODIFICATION OF LIMITATIONS.—

6 (1) IN GENERAL.—Section 163(h)(3) is amend-
7 ed to read as follows:

8 “(3) QUALIFIED RESIDENCE INTEREST.—For
9 purposes of this subsection—

10 “(A) IN GENERAL.—The term ‘qualified
11 residence interest’ means any interest which is
12 paid or accrued during the taxable year on in-
13 debtedness which—

14 “(i) is incurred in acquiring, con-
15 structing, or substantially improving any
16 qualified residence (determined as of the
17 time the interest is accrued) of the tax-
18 payer, and

19 “(ii) is secured by such residence.

20 Such term also includes interest on any indebt-
21 edness secured by such residence resulting from
22 the refinancing of indebtedness meeting the re-
23 quirements of the preceding sentence (or this
24 sentence); but only to the extent the amount of
25 the indebtedness resulting from such refi-

1 nancing does not exceed the amount of the refi-
2 nanced indebtedness.

3 “(B) LIMITATION.—

4 “(i) IN GENERAL.—The aggregate
5 amount of indebtedness taken into account
6 under subparagraph (A) for any period
7 shall not exceed \$500,000 (half of such
8 amount in the case of a married individual
9 filing a separate return).

10 “(C) TREATMENT OF INDEBTEDNESS IN-
11 CURRED ON OR BEFORE NOVEMBER 2, 2017.—

12 “(i) IN GENERAL.—In the case of any
13 pre-November 2, 2017, indebtedness, this
14 paragraph shall apply as in effect imme-
15 diately before the enactment of the Tax
16 Cuts and Jobs Act.

17 “(ii) PRE-NOVEMBER 2, 2017, INDEBT-
18 EDNESS.—For purposes of this subpara-
19 graph, the term ‘pre-November 2, 2017,
20 indebtedness’ means—

21 “(I) any principal residence ac-
22 quisition indebtedness which was in-
23 curred on or before November 2,
24 2017, or

1 “(II) any principal residence ac-
2 quisition indebtedness which is in-
3 curred after November 2, 2017, to re-
4 finance indebtedness described in
5 clause (i) (or refinanced indebtedness
6 meeting the requirements of this
7 clause) to the extent (immediately
8 after the refinancing) the principal
9 amount of the indebtedness resulting
10 from the refinancing does not exceed
11 the principal amount of the refinanced
12 indebtedness (immediately before the
13 refinancing).

14 “(iii) LIMITATION ON PERIOD OF RE-
15 FINANCING.—clause (ii)(II) shall not apply
16 to any indebtedness after—

17 “(I) the expiration of the term of
18 the original indebtedness, or

19 “(II) if the principal of such
20 original indebtedness is not amortized
21 over its term, the expiration of the
22 term of the 1st refinancing of such in-
23 debtedness (or if earlier, the date
24 which is 30 years after the date of
25 such 1st refinancing).

1 “(iv) BINDING CONTRACT EXCEP-
 2 TION.—In the case of a taxpayer who en-
 3 ters into a written binding contract before
 4 November 2, 2017, to close on the pur-
 5 chase of a principal residence before Janu-
 6 ary 1, 2018, and who purchases such resi-
 7 dence before April 1, 2018, subparagraphs
 8 (A) and (B) shall be applied by sub-
 9 stituting ‘April 1, 2018’ for ‘November 2,
 10 2017’.”.

11 (2) CONFORMING AMENDMENTS.—

12 (A) Section 108(h)(2) is by striking “for
 13 ‘\$1,000,000 (\$500,000’ in clause (ii) thereof”
 14 and inserting “for ‘\$500,000 (\$250,000’ in
 15 paragraph (2)(A), and ‘\$1,000,000’ for
 16 ‘\$500,000’ in paragraph (2)(B), thereof”

17 (B) Section 163(h) is amended—

18 (i) by striking subparagraphs (E) and
 19 (F) in paragraph (4), and
 20 (ii) by striking paragraph (5).

21 (b) TAXPAYERS LIMITED TO 1 QUALIFIED RESI-
 22 DENCE.—Section 163(h)(4)(A)(i) is amended to read as
 23 follows:

24 “(i) IN GENERAL.—The term ‘quali-
 25 fied residence’ means the principal resi-

1 dence (within the meaning of section 121)
 2 of the taxpayer. Rules similar to the rules
 3 of paragraph (3)(C) shall apply for pur-
 4 poses of the preceding sentence.”.

5 (c) EFFECTIVE DATES.—

6 (1) IN GENERAL.—The amendments made by
 7 this section shall apply to interest paid or accrued
 8 in taxable years beginning after December 31, 2017,
 9 with respect to indebtedness incurred before, on, or
 10 after such date.

11 (2) TREATMENT OF GRANDFATHERED INDEBT-
 12 EDNESS.—For application of the amendments made
 13 by this section to grandfathered indebtedness, see
 14 paragraph (3)(C), and the second sentence of para-
 15 graph (4)(A)(i), of section 163(h) of the Internal
 16 Revenue Code of 1986, as amended by this section.

17 **SEC. 1303. REPEAL OF DEDUCTION FOR CERTAIN TAXES**

18 **NOT PAID OR ACCRUED IN A TRADE OR BUSI-**
 19 **NESS.**

20 (a) IN GENERAL.—Section 164(b)(5) is amended to
 21 read as follows:

22 “(5) LIMITATION IN CASE OF INDIVIDUALS.—In
 23 the case of a taxpayer other than a corporation—

24 “(A) foreign real property taxes (other
 25 than taxes which are paid or accrued in car-

1 rying on a trade or business or an activity de-
2 scribed in section 212) shall not be taken into
3 account under subsection (a)(1),

4 “(B) the aggregate amount of taxes (other
5 than taxes which are paid or accrued in car-
6 rying on a trade or business or an activity de-
7 scribed in section 212) taken into account
8 under subsection (a)(1) and for any taxable
9 year shall not exceed \$10,000 (\$5,000 in the
10 case of a married individual filing a separate re-
11 turn),

12 “(C) subsection (a)(2) shall only apply to
13 taxes which are paid or accrued in carrying on
14 a trade or business or an activity described in
15 section 212, and

16 “(D) subsection (a)(3) shall not apply to
17 State and local taxes.”.

18 (b) **EFFECTIVE DATE.**—The amendments made by
19 this section shall apply to taxable years beginning after
20 December 31, 2017.

21 **SEC. 1304. REPEAL OF DEDUCTION FOR PERSONAL CAS-**
22 **UALTY LOSSES.**

23 (a) **IN GENERAL.**—Section 165(c) is amended by in-
24 serting “and” at the end of paragraph (1), by striking

1 “; and” at the end of paragraph (2) and inserting a pe-
2 riod, and by striking paragraph (3).

3 (b) CONFORMING AMENDMENTS.—

4 (1) Section 165(h) is amended to read as fol-
5 lows:

6 “(h) SPECIAL RULE WHERE PERSONAL CASUALTY
7 GAINS EXCEED PERSONAL CASUALTY LOSSES.—

8 “(1) IN GENERAL.—If the personal casualty
9 gains for any taxable year exceed the personal cas-
10 ualty losses for such taxable year—

11 “(A) all such gains shall be treated as
12 gains from sales or exchanges of capital assets,
13 and

14 “(B) all such losses shall be treated as
15 losses from sales or exchanges of capital assets.

16 “(2) DEFINITIONS OF PERSONAL CASUALTY
17 GAIN AND PERSONAL CASUALTY LOSS.—For pur-
18 poses of this subsection—

19 “(A) PERSONAL CASUALTY LOSS.—The
20 term ‘personal casualty loss’ means any loss of
21 property not connected with a trade or business
22 or a transaction entered into for profit, if such
23 loss arises from fire, storm, shipwreck, or other
24 casualty, or from theft.

1 “(B) PERSONAL CASUALTY GAIN.—The
2 term ‘personal casualty gain’ means the recog-
3 nized gain from any involuntary conversion of
4 property which is described in subparagraph
5 (A) arising from fire, storm, shipwreck, or other
6 casualty, or from theft.”.

7 (2) Subsection (i) of section 165 is amended—

8 (A) in paragraph (1)—

9 (i) by striking “(as defined by clause

10 (ii) of subsection (h)(3)(C)”, and

11 (ii) by striking “(as defined by clause

12 (i) of such subsection)”,

13 (B) by striking “(as defined by subsection
14 (h)(3)(C)(i)” in paragraph (4), and

15 (C) by adding at the end the following new
16 paragraph:

17 “(5) FEDERALLY DECLARED DISASTER.—For
18 purposes of this subsection—

19 “(A) FEDERALLY DECLARED DISASTER.—

20 The term ‘federally declared disaster’ means
21 any disaster subsequently determined by the
22 President of the United States to warrant as-
23 sistance by the Federal Government under the
24 Robert T. Stafford Disaster Relief and Emer-
25 gency Assistance Act.

1 “(B) DISASTER AREA.—The term ‘disaster
2 area’ means the area so determined to warrant
3 such assistance.”.

4 (3) Section 165 is amended by striking sub-
5 section (k).

6 (4)(A) Section 165(l)(1) is amended by striking
7 “a loss described in subsection (c)(3)” and inserting
8 “an ordinary loss described in subsection (c)(2)”.

9 (B) Section 165(l) is amended—

10 (i) by striking paragraph (5),

11 (ii) by redesignating paragraphs (2), (3),
12 and (4) as paragraphs (3), (4), and (5), respec-
13 tively, and

14 (iii) by inserting after paragraph (1) the
15 following new paragraph:

16 “(2) LIMITATIONS.—

17 “(A) DEPOSIT MAY NOT BE FEDERALLY
18 INSURED.—No election may be made under
19 paragraph (1) with respect to any loss on a de-
20 posit in a qualified financial institution if part
21 or all of such deposit is insured under Federal
22 law.

23 “(B) DOLLAR LIMITATION.—With respect
24 to each financial institution, the aggregate
25 amount of losses attributable to deposits in

1 such financial institution to which an election
2 under paragraph (1) may be made by the tax-
3 payer for any taxable year shall not exceed
4 \$20,000 (\$10,000 in the case of a separate re-
5 turn by a married individual). The limitation of
6 the preceding sentence shall be reduced by the
7 amount of any insurance proceeds under any
8 State law which can reasonably be expected to
9 be received with respect to losses on deposits in
10 such institution.”.

11 (5) Section 172(b)(1)(E)(ii), prior to amend-
12 ment under title III, is amended by striking sub-
13 clause (I) and by redesignating subclauses (II) and
14 (III) as subclauses (I) and (II), respectively

15 (6) Section 172(d)(4)(C) is amended by strik-
16 ing “paragraph (2) or (3) of section 165(c)” and in-
17 serting “section 165(c)(2)”.

18 (7) Section 274(f) is amended by striking
19 “CASUALTY LOSSES,” in the heading thereof.

20 (8) Section 280A(b) is amended by striking
21 “CASUALTY LOSSES,” in the heading thereof.

22 (9) Section 873(b), as amended by the pre-
23 ceding provisions of this Act, is amended by striking
24 paragraph (1) and by redesignating paragraphs (2)
25 and (3) as paragraphs (1) and (2), respectively.

1 (10) Section 504(b) of the Disaster Tax Relief
2 and Airport and Airway Extension Act of 2017 is
3 amended by adding at the end the following new
4 paragraph:

5 “(4) COORDINATION WITH TAX REFORM.—This
6 subsection shall be applied without regard to the
7 amendments made by section 1306 of the Tax Cuts
8 and Jobs Act.”.

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to taxable years beginning after
11 December 31, 2017.

12 **SEC. 1305. LIMITATION ON WAGERING LOSSES.**

13 (a) IN GENERAL.—Section 165(d) is amended by
14 adding at the end the following: “For purposes of the pre-
15 ceding sentence, the term ‘losses from wagering trans-
16 actions’ includes any deduction otherwise allowable under
17 this chapter incurred in carrying on any wagering trans-
18 action.”.

19 (b) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to taxable years beginning after
21 December 31, 2017.

22 **SEC. 1306. CHARITABLE CONTRIBUTIONS.**

23 (a) INCREASED LIMITATION FOR CASH CONTRIBU-
24 TIONS.—

1 (1) IN GENERAL.—Section 170(b)(1) is amend-
2 ed by redesignating subparagraph (G) as subpara-
3 graph (H) and by inserting after subparagraph (F)
4 the following new subparagraph:

5 “(G) INCREASED LIMITATION FOR CASH
6 CONTRIBUTIONS.—

7 “(i) IN GENERAL.—In the case of any
8 contribution of cash to an organization de-
9 scribed in subparagraph (A), the total
10 amount of such contributions which may
11 be taken into account under subsection (a)
12 for any taxable year shall not exceed 60
13 percent of the taxpayer’s contribution base
14 for such year.

15 “(ii) CARRYOVER.—If the aggregate
16 amount of contributions described in clause
17 (i) exceeds the applicable limitation under
18 clause (i), such excess shall be treated (in
19 a manner consistent with the rules of sub-
20 section (d)(1)) as a charitable contribution
21 to which clause (i) applies in each of the
22 5 succeeding years in order of time.

23 “(iii) COORDINATION WITH SUBPARA-
24 GRAPHS (A) AND (B).—

1 “(I) IN GENERAL.—Contribu-
2 tions taken into account under this
3 subparagraph shall not be taken into
4 account under subparagraph (A).

5 “(II) LIMITATION REDUCTION.—
6 Subparagraphs (A) and (B) shall be
7 applied by reducing (but not below
8 zero) the aggregate contribution limi-
9 tation allowed for the taxable year
10 under each such subparagraph by the
11 aggregate contributions allowed under
12 this subparagraph for such taxable
13 year.”.

14 (b) DENIAL OF DEDUCTION FOR COLLEGE ATH-
15 LETIC EVENT SEATING RIGHTS.—Section 170(l)(1) is
16 amended to read as follows:

17 “(1) IN GENERAL.—No deduction shall be al-
18 lowed under this section for any amount described in
19 paragraph (2).”.

20 (c) CHARITABLE MILEAGE RATE ADJUSTED FOR IN-
21 FLATION.—Section 170(i) is amended by striking “shall
22 be 14 cents per mile” and inserting “shall be a rate which
23 takes into account the variable cost of operating an auto-
24 mobile”.

1 (d) REPEAL OF SUBSTANTIATION EXCEPTION IN
2 CASE OF CONTRIBUTIONS REPORTED BY DONEE.—Sec-
3 tion 170(f)(8) is amended by striking subparagraph (D)
4 and by redesignating subparagraph (E) as subparagraph
5 (D).

6 (e) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to contributions made in taxable
8 years beginning after December 31, 2017.

9 **SEC. 1307. REPEAL OF DEDUCTION FOR TAX PREPARATION**
10 **EXPENSES.**

11 (a) IN GENERAL.—Section 212 is amended by adding
12 “or” at the end of paragraph (1), by striking “; or” at
13 the end of paragraph (2) and inserting a period, and by
14 striking paragraph (3).

15 (b) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to taxable years beginning after
17 December 31, 2017.

18 **SEC. 1308. REPEAL OF MEDICAL EXPENSE DEDUCTION.**

19 (a) IN GENERAL.—Part VII of subchapter B is
20 amended by striking by striking section 213 (and by strik-
21 ing the item relating to such section in the table of section
22 for such subpart).

23 (b) CONFORMING AMENDMENTS.—

24 (1)(A) Section 105(f) is amended to read as fol-
25 lows:

1 “(f) MEDICAL CARE.—For purposes of this section—

2 “(1) IN GENERAL.—The term ‘medical care’
3 means amounts paid—

4 “(A) for the diagnosis, cure, mitigation,
5 treatment, or prevention of disease, or for the
6 purpose of affecting any structure or function
7 of the body,

8 “(B) for transportation primarily for and
9 essential to medical care referred to in subpara-
10 graph (A),

11 “(C) for qualified long-term care services
12 (as defined in section 7702B(c)), or

13 “(D) for insurance (including amounts
14 paid as premiums under part B of title XVIII
15 of the Social Security Act, relating to supple-
16 mentary medical insurance for the aged) cov-
17 ering medical care referred to in subparagraphs
18 (A) and (B) or for any qualified long-term care
19 insurance contract (as defined in section
20 7702B(b)).

21 In the case of a qualified long-term care insurance
22 contract (as defined in section 7702B(b)), only eligi-
23 ble long-term care premiums (as defined in para-
24 graph (7)) shall be taken into account under sub-
25 paragraph (D).

1 “(2) AMOUNTS PAID FOR CERTAIN LODGING
2 AWAY FROM HOME TREATED AS PAID FOR MEDICAL
3 CARE.—Amounts paid for lodging (not lavish or ex-
4 travagant under the circumstances) while away from
5 home primarily for and essential to medical care re-
6 ferred to in paragraph (1)(A) shall be treated as
7 amounts paid for medical care if—

8 “(A) the medical care referred to in para-
9 graph (1)(A) is provided by a physician in a li-
10 censed hospital (or in a medical care facility
11 which is related to, or the equivalent of, a li-
12 censed hospital), and

13 “(B) there is no significant element of per-
14 sonal pleasure, recreation, or vacation in the
15 travel away from home.

16 The amount taken into account under the preceding
17 sentence shall not exceed \$50 for each night for each
18 individual.

19 “(3) PHYSICIAN.—The term ‘physician’ has the
20 meaning given to such term by section 1861(r) of
21 the Social Security Act (42 U.S.C. 1395x(r)).

22 “(4) CONTRACTS COVERING OTHER THAN MED-
23 ICAL CARE.—In the case of an insurance contract
24 under which amounts are payable for other than

1 medical care referred to in subparagraphs (A), (B)
2 and (C) of paragraph (1)—

3 “(A) no amount shall be treated as paid
4 for insurance to which paragraph (1)(D) applies
5 unless the charge for such insurance is either
6 separately stated in the contract, or furnished
7 to the policyholder by the insurance company in
8 a separate statement,

9 “(B) the amount taken into account as the
10 amount paid for such insurance shall not exceed
11 such charge, and

12 “(C) no amount shall be treated as paid
13 for such insurance if the amount specified in
14 the contract (or furnished to the policyholder by
15 the insurance company in a separate statement)
16 as the charge for such insurance is unreason-
17 ably large in relation to the total charges under
18 the contract.

19 “(5) CERTAIN PRE-PAID CONTRACTS.—Subject
20 to the limitations of paragraph (4), premiums paid
21 during the taxable year by a taxpayer before he at-
22 tains the age of 65 for insurance covering medical
23 care (within the meaning of subparagraphs (A), (B),
24 and (C) of paragraph (1)) for the taxpayer, his
25 spouse, or a dependent after the taxpayer attains the

1 age of 65 shall be treated as expenses paid during
2 the taxable year for insurance which constitutes
3 medical care if premiums for such insurance are
4 payable (on a level payment basis) under the con-
5 tract for a period of 10 years or more or until the
6 year in which the taxpayer attains the age of 65
7 (but in no case for a period of less than 5 years).

8 “(6) COSMETIC SURGERY.—

9 “(A) IN GENERAL.—The term ‘medical
10 care’ does not include cosmetic surgery or other
11 similar procedures, unless the surgery or proce-
12 dure is necessary to ameliorate a deformity
13 arising from, or directly related to, a congenital
14 abnormality, a personal injury resulting from
15 an accident or trauma, or disfiguring disease.

16 “(B) COSMETIC SURGERY DEFINED .—For
17 purposes of this paragraph, the term ‘cosmetic
18 surgery’ means any procedure which is directed
19 at improving the patient’s appearance and does
20 not meaningfully promote the proper function
21 of the body or prevent or treat illness or dis-
22 ease.

23 “(7) ELIGIBLE LONG-TERM CARE PREMIUMS.—

24 “(A) IN GENERAL.—For purposes of this
25 section, the term ‘eligible long-term care pre-

1 miums’ means the amount paid during a tax-
 2 able year for any qualified long-term care insur-
 3 ance contract (as defined in section 7702B(b))
 4 covering an individual, to the extent such
 5 amount does not exceed the limitation deter-
 6 mined under the following table:

| “In the case of an individual with an attained age before the close of the taxable year of: | The limitation is: |
|---|--------------------|
| 40 or less | \$200 |
| More than 40 but not more than 50 | \$375 |
| More than 50 but not more than 60 | \$750 |
| More than 60 but not more than 70 | \$2,000 |
| More than 70 | \$2,500 |

7 “(B) INDEXING.—

8 “(i) IN GENERAL.—In the case of any
 9 taxable year beginning after 1997, each
 10 dollar amount in subparagraph (A) shall
 11 be increased by the medical care cost ad-
 12 justment of such amount for such calendar
 13 year. Any increase determined under the
 14 preceding sentence shall be rounded to the
 15 nearest multiple of \$10.

16 “(ii) MEDICAL CARE COST ADJUST-
 17 MENT.—For purposes of clause (i), the
 18 medical care cost adjustment for any cal-
 19 endar year is the adjustment prescribed by
 20 the Secretary, in consultation with the Sec-
 21 retary of Health and Human Services, for

1 purposes of such clause. To the extent that
2 CPI (as defined section 1(c)), or any com-
3 ponent thereof, is taken into account in de-
4 termining such adjustment, such adjust-
5 ment shall be determined by taking into
6 account C-CPI-U (as so defined), or the
7 corresponding component thereof, in lieu of
8 such CPI (or component thereof), but only
9 with respect to the portion of such adjust-
10 ment which relates to periods after Decem-
11 ber 31, 2017.

12 “(8) CERTAIN PAYMENTS TO RELATIVES
13 TREATED AS NOT PAID FOR MEDICAL CARE.—An
14 amount paid for a qualified long-term care service
15 (as defined in section 7702B(c)) provided to an indi-
16 vidual shall be treated as not paid for medical care
17 if such service is provided—

18 “(A) by the spouse of the individual or by
19 a relative (directly or through a partnership,
20 corporation, or other entity) unless the service
21 is provided by a licensed professional with re-
22 spect to such service, or

23 “(B) by a corporation or partnership which
24 is related (within the meaning of section 267(b)
25 or 707(b)) to the individual.

1 For purposes of this paragraph, the term ‘relative’
2 means an individual bearing a relationship to the in-
3 dividual which is described in any of subparagraphs
4 (A) through (G) of section 7706(d)(2). This para-
5 graph shall not apply for purposes of subsection (b)
6 with respect to reimbursements through insurance.”.

7 (B) Section 72(t)(2)(D)(i)(III) is amended by
8 striking “section 213(d)(1)(D)” and inserting “sec-
9 tion 105(f)(1)(D)”.

10 (C) Section 104(a) is amended by striking “sec-
11 tion 213(d)(1)” in the last sentence and inserting
12 “section 105(f)(1)”.

13 (D) Section 105(b) is amended by striking
14 “section 213(d)” and inserting “section 105(f)”.

15 (E) Section 139D is amended by striking “sec-
16 tion 213” and inserting “section 223”.

17 (F) Section 162(l)(2) is amended by striking
18 “section 213(d)(10)” and inserting “section
19 105(f)(7)”.

20 (G) Section 220(d)(2)(A) is amended by strik-
21 ing “section 213(d)” and inserting “section 105(f)”.

22 (H) Section 223(d)(2)(A) is amended by strik-
23 ing “section 213(d)” and inserting “section 105(f)”.

24 (I) Section 419A(f)(2) is amended by striking
25 “section 213(d)” and inserting “section 105(f)”.

1 (J) Section 501(c)(26)(A) is amended by strik-
2 ing “section 213(d)” and inserting “section 105(f)”.

3 (K) Section 2503(e) is amended by striking
4 “section 213(d)” and inserting “section 105(f)”.

5 (L) Section 4980B(c)(4)(B)(i)(I) is amended by
6 striking “section 213(d)” and inserting “section
7 105(f)”.

8 (M) Section 6041(f) is amended by striking
9 “section 213(d)” and inserting “section 105(f)”.

10 (N) Section 7702B(a)(2) is amended by strik-
11 ing “section 213(d)” and inserting “section 105(f)”.

12 (O) Section 7702B(a)(4) is amended by strik-
13 ing “section 213(d)(1)(D)” and inserting “section
14 105(f)(1)(D)”.

15 (P) Section 7702B(d)(5) is amended by striking
16 “section 213(d)(10)” and inserting “section
17 105(f)(7)”.

18 (Q) Section 9832(d)(3) is amended by striking
19 “section 213(d)” and inserting “section 105(f)”.

20 (2) Section 72(t)(2)(B) is amended to read as
21 follows:

22 “(B) MEDICAL EXPENSES.—Distributions
23 made to an individual (other than distributions
24 described in subparagraph (A), (C), or (D) to

1 the extent such distributions do not exceed the
2 excess of—

3 “(i) the expenses paid by the taxpayer
4 during the taxable year, not compensated
5 for by insurance or otherwise, for medical
6 care (as defined in 105(f)) of the taxpayer,
7 his spouse, or a dependent (as defined in
8 section 7706, determined without regard to
9 subsections (b)(1), (b)(2), and (d)(1)(B)
10 thereof), over

11 “(ii) 10 percent of the taxpayer’s ad-
12 justed gross income.”.

13 (3) Section 162(l) is amended by striking para-
14 graph (3).

15 (4) Section 402(l) is amended by striking para-
16 graph (7) and redesignating paragraph (8) as para-
17 graph (7).

18 (5) Section 220(f) is amended by striking para-
19 graph (6).

20 (6) Section 223(f) is amended by striking para-
21 graph (6).

22 (7) Section 7702B(e) is amended by striking
23 paragraph (2).

24 (8) Section 7706(f)(7), as redesignated by this
25 Act, is amended by striking “sections 105(b),

1 132(h)(2)(B), and 213(d)(5)” and inserting “sec-
2 tions 105(b) and 132(h)(2)(B)”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years beginning after
5 December 31, 2017.

6 **SEC. 1309. REPEAL OF DEDUCTION FOR ALIMONY PAY-**
7 **MENTS.**

8 (a) IN GENERAL.—Part VII of subchapter B is
9 amended by striking by striking section 215 (and by strik-
10 ing the item relating to such section in the table of section
11 for such subpart).

12 (b) CONFORMING AMENDMENTS.—

13 (1) AMENDMENTS RELATING TO SECTION
14 215.—

15 (A) CORRESPONDING REPEAL OF PROVI-
16 SIONS PROVIDING FOR INCLUSION OF ALIMONY
17 IN GROSS INCOME.—

18 (i) Subsection (a) of section 61 is
19 amended by striking paragraph (8) and by
20 redesignating paragraphs (9) through (15)
21 as paragraphs (8) through (14), respec-
22 tively.

23 (ii) Part II of subchapter B of chapter
24 1 is amended by striking section 71 (and

1 by striking the item relating to such sec-
2 tion in the table of sections for such part).

3 (iii) Subpart F of part I of subchapter
4 J of chapter 1 is amended by striking sec-
5 tion 682 (and by striking the item relating
6 to such section in the table of sections for
7 such subpart).

8 (B) RELATED TO REPEAL OF SECTION
9 215.—

10 (i) Section 62(a) is amended by strik-
11 ing paragraph (10).

12 (ii) Section 3402(m)(1) is amended by
13 striking “(other than paragraph (10)
14 thereof)”.

15 (C) RELATED TO REPEAL OF SECTION
16 71.—

17 (i) Section 121(d)(3) is amended—

18 (I) by striking “(as defined in
19 section 71(b)(2))” in subparagraph
20 (B), and

21 (II) by adding at the end the fol-
22 lowing new subparagraph:

23 “(C) DIVORCE OR SEPARATION INSTRU-
24 MENT.—For purposes of this paragraph, the

1 term ‘divorce or separation instrument’
2 means—

3 “(i) a decree of divorce or separate
4 maintenance or a written instrument inci-
5 dent to such a decree,

6 “(ii) a written separation agreement,
7 or

8 “(iii) a decree (not described in clause
9 (i)) requiring a spouse to make payments
10 for the support or maintenance of the
11 other spouse.”.

12 (ii) Section 220(f)(7) is amended by
13 striking “subparagraph (A) of section
14 71(b)(2)” and inserting “clause (i) of sec-
15 tion 121(d)(3)(C)”.

16 (iii) Section 223(f)(7) is amended by
17 striking “subparagraph (A) of section
18 71(b)(2)” and inserting “clause (i) of sec-
19 tion 121(d)(3)(C)”.

20 (iv) Section 382(l)(3)(B)(iii) is
21 amended by striking “section 71(b)(2)”
22 and inserting “section 121(d)(3)(C)”.

23 (v) Section 408(d)(6) is amended by
24 striking “subparagraph (A) of section

1 71(b)(2)” and inserting “clause (i) of sec-
2 tion 121(d)(3)(C)”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to—

5 (1) any divorce or separation instrument (as de-
6 fined in section 71(b)(2) of the Internal Revenue
7 Code of 1986 as in effect before the date of the en-
8 actment of this Act) executed after December 31,
9 2017, and

10 (2) any divorce or separation instrument (as so
11 defined) executed on or before such date and modi-
12 fied after such date if the modification expressly
13 provides that the amendments made by this section
14 apply to such modification.

15 **SEC. 1310. REPEAL OF DEDUCTION FOR MOVING EX-**
16 **PENSES.**

17 (a) IN GENERAL.—Part VII of subchapter B is
18 amended by striking by striking section 217 (and by strik-
19 ing the item relating to such section in the table of section
20 for such subpart).

21 (b) CONFORMING AMENDMENTS.—

22 (1) Section 62(a) is amended by striking para-
23 graph (15).

24 (2) Section 274(m)(3) is amended by striking
25 “(other than section 217)”.

1 (3) Section 3121(a) is amended by striking
2 paragraph (11).

3 (4) Section 3306(b) is amended by striking
4 paragraph (9).

5 (5) Section 3401(a) is amended by striking
6 paragraph (15).

7 (6) Section 7872(f) is amended by striking
8 paragraph (11).

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to taxable years beginning after
11 December 31, 2017.

12 **SEC. 1311. TERMINATION OF DEDUCTION AND EXCLUSIONS**
13 **FOR CONTRIBUTIONS TO MEDICAL SAVINGS**
14 **ACCOUNTS.**

15 (a) TERMINATION OF INCOME TAX DEDUCTION.—
16 Section 220 is amended by adding at the end the following
17 new subsection:

18 “(k) TERMINATION.—No deduction shall be allowed
19 under subsection (a) with respect to any taxable year be-
20 ginning after December 31, 2017.”.

21 (b) TERMINATION OF EXCLUSION FOR EMPLOYER-
22 PROVIDED CONTRIBUTIONS.—Section 106 is amended by
23 striking subsection (b).

24 (c) CONFORMING AMENDMENTS.—

1 (1) Section 62(a) is amended by striking para-
2 graph (16).

3 (2) Section 106(d) is amended by striking para-
4 graph (2), by redesignating paragraph (3) as para-
5 graph (6), and by inserting after paragraph (1) the
6 following new paragraphs:

7 “(2) NO CONSTRUCTIVE RECEIPT.—No amount
8 shall be included in the gross income of any em-
9 ployee solely because the employee may choose be-
10 tween the contributions referred to in paragraph (1)
11 and employer contributions to another health plan of
12 the employer.

13 “(3) SPECIAL RULE FOR DEDUCTION OF EM-
14 PLOYER CONTRIBUTIONS.—Any employer contribu-
15 tion to a health savings account (as so defined), if
16 otherwise allowable as a deduction under this chap-
17 ter, shall be allowed only for the taxable year in
18 which paid.

19 “(4) EMPLOYER HEALTH SAVINGS ACCOUNT
20 CONTRIBUTION REQUIRED TO BE SHOWN ON RE-
21 TURN.—Every individual required to file a return
22 under section 6012 for the taxable year shall include
23 on such return the aggregate amount contributed by
24 employers to the health savings accounts (as so de-

1 fined) of such individual or such individual’s spouse
2 for such taxable year.

3 “(5) HEALTH SAVINGS ACCOUNT CONTRIBU-
4 TIONS NOT PART OF COBRA COVERAGE.—Paragraph
5 (1) shall not apply for purposes of section 4980B.”.

6 (3) Section 223(b)(4) is amended by striking
7 subparagraph (A), by redesignating subparagraphs
8 (B) and (C) as subparagraphs (A) and (B), respec-
9 tively, and by striking the second sentence thereof.

10 (4) Section 223(b)(5) is amended by striking
11 “under paragraph (3))” and all that follows through
12 “shall be divided equally between them” and insert-
13 ing the following: “under paragraph (3)) shall be di-
14 vided equally between the spouses”.

15 (5) Section 223(c) is amended by striking para-
16 graph (5).

17 (6) Section 3231(e) is amended by striking
18 paragraph (10).

19 (7) Section 3306(b) is amended by striking
20 paragraph (17).

21 (8) Section 3401(a) is amended by striking
22 paragraph (21).

23 (9) Chapter 43 is amended by striking section
24 4980E (and by striking the item relating to such
25 section in the table of sections for such chapter).

1 (10) Section 4980G is amended to read as fol-
2 lows:

3 **“SEC. 4980G. FAILURE OF EMPLOYER TO MAKE COM-**
4 **PARABLE HEALTH SAVINGS ACCOUNT CON-**
5 **TRIBUTIONS.**

6 “(a) IN GENERAL.—In the case of an employer who
7 makes a contribution to the health savings account of any
8 employee during a calendar year, there is hereby imposed
9 a tax on the failure of such employer to meet the require-
10 ments of subsection (d) for such calendar year.

11 “(b) AMOUNT OF TAX.—The amount of the tax im-
12 posed by subsection (a) on any failure for any calendar
13 year is the amount equal to 35 percent of the aggregate
14 amount contributed by the employer to health savings ac-
15 counts of employees for taxable years of such employees
16 ending with or within such calendar year.

17 “(c) WAIVER BY SECRETARY.—In the case of a fail-
18 ure which is due to reasonable cause and not to willful
19 neglect, the Secretary may waive part or all of the tax
20 imposed by subsection (a) to the extent that the payment
21 of such tax would be excessive relative to the failure in-
22 volved.

23 “(d) EMPLOYER REQUIRED TO MAKE COMPARABLE
24 HEALTH SAVINGS ACCOUNT CONTRIBUTIONS FOR ALL
25 PARTICIPATING EMPLOYEES.—

1 “(1) IN GENERAL.—An employer meets the re-
2 quirements of this subsection for any calendar year
3 if the employer makes available comparable con-
4 tributions to the health savings accounts of all com-
5 parable participating employees for each coverage
6 period during such calendar year.

7 “(2) COMPARABLE CONTRIBUTIONS.—

8 “(A) IN GENERAL.—For purposes of para-
9 graph (1), the term ‘comparable contributions’
10 means contributions—

11 “(i) which are the same amount, or

12 “(ii) which are the same percentage of
13 the annual deductible limit under the high
14 deductible health plan covering the employ-
15 ees.

16 “(B) PART-YEAR EMPLOYEES.—In the
17 case of an employee who is employed by the em-
18 ployer for only a portion of the calendar year,
19 a contribution to the health savings account of
20 such employee shall be treated as comparable if
21 it is an amount which bears the same ratio to
22 the comparable amount (determined without re-
23 gard to this subparagraph) as such portion
24 bears to the entire calendar year.

1 “(3) COMPARABLE PARTICIPATING EMPLOY-
2 EES.—

3 “(A) IN GENERAL.—For purposes of para-
4 graph (1), the term ‘comparable participating
5 employees’ means all employees—

6 “(i) who are eligible individuals cov-
7 ered under any high deductible health plan
8 of the employer, and

9 “(ii) who have the same category of
10 coverage.

11 “(B) CATEGORIES OF COVERAGE.—For
12 purposes of subparagraph (B), the categories of
13 coverage are self-only and family coverage.

14 “(4) PART-TIME EMPLOYEES.—

15 “(A) IN GENERAL.—Paragraph (3) shall
16 be applied separately with respect to part-time
17 employees and other employees.

18 “(B) PART-TIME EMPLOYEE.—For pur-
19 poses of subparagraph (A), the term ‘part-time
20 employee’ means any employee who is custom-
21 arily employed for fewer than 30 hours per
22 week.

23 “(5) SPECIAL RULE FOR NON-HIGHLY COM-
24 PENSATED EMPLOYEES.—For purposes of applying
25 this section to a contribution to a health savings ac-

1 count of an employee who is not a highly com-
2 pensated employee (as defined in section 414(q)),
3 highly compensated employees shall not be treated
4 as comparable participating employees.

5 “(e) CONTROLLED GROUPS.—For purposes of this
6 section, all persons treated as a single employer under sub-
7 section (b), (c), (m), or (o) of section 414 shall be treated
8 as 1 employer.

9 “(f) DEFINITIONS.—Terms used in this section which
10 are also used in section 223 have the respective meanings
11 given such terms in section 223.

12 “(g) REGULATIONS.—The Secretary shall issue regu-
13 lations to carry out the purposes of this section.”.

14 (11) Section 6051(a) is amended by striking
15 paragraph (11).

16 (12) Section 6051(a)(14)(A) is amended by
17 striking “paragraphs (11) and (12)” and inserting
18 “paragraph (12)”.

19 (d) EFFECTIVE DATE.—The amendment made by
20 this section shall apply to taxable years beginning after
21 December 31, 2017.

1 **SEC. 1312. DENIAL OF DEDUCTION FOR EXPENSES ATTRIB-**
 2 **UTABLE TO THE TRADE OR BUSINESS OF**
 3 **BEING AN EMPLOYEE.**

4 (a) IN GENERAL.—Part IX of subchapter B of chap-
 5 ter 1 is amended by inserting after the item relating to
 6 section 262 the following new item:

7 **“SEC. 262A. EXPENSES ATTRIBUTABLE TO BEING AN EM-**
 8 **PLOYEE.**

9 “(a) IN GENERAL.—Except as otherwise provided in
 10 this section, no deduction shall be allowed with respect to
 11 any trade or business of the taxpayer which consists of
 12 the performance of services by the taxpayer as an em-
 13 ployee.

14 “(b) EXCEPTION FOR ABOVE-THE-LINE DEDUC-
 15 TIONS.—Subsection (a) shall not apply to any deduction
 16 allowable (determined without regard to subsection (a)) in
 17 determining adjusted gross income.”.

18 (b) REPEAL OF CERTAIN ABOVE-THE-LINE TRADE
 19 AND BUSINESS DEDUCTIONS OF EMPLOYEES.—

20 (1) IN GENERAL.—Section 62(a)(2) is amend-
 21 ed—

22 (A) by striking subparagraphs (B), (C),
 23 and (D), and

24 (B) by redesignating subparagraph (E) as
 25 subparagraph (B).

26 (2) CONFORMING AMENDMENTS.—

1 (A) Section 62 is amended by striking sub-
 2 sections (b) and (d) and by redesignating sub-
 3 sections (c) and (e) as subsections (b) and (c),
 4 respectively.

5 (B) Section 62(a)(20) is amended by strik-
 6 ing “subsection (e)” and inserting “subsection
 7 (c)”.

8 (c) CONTINUED EXCLUSION OF WORKING CONDI-
 9 TION FRINGE BENEFITS.—Section 132(d) is amended by
 10 inserting “(determined without regard to section 262A)”
 11 after “section 162”.

12 (d) EFFECTIVE DATE.—The amendments made by
 13 this section shall apply to taxable years beginning after
 14 December 31, 2017.

15 **Subtitle E—Simplification and Re-**
 16 **form of Exclusions and Taxable**
 17 **Compensation**

18 **SEC. 1401. LIMITATION ON EXCLUSION FOR EMPLOYER-**
 19 **PROVIDED HOUSING.**

20 (a) IN GENERAL.—Section 119 is amended by adding
 21 at the end the following new subsection:

22 “(e) LIMITATION ON EXCLUSION OF LODGING.—

23 “(1) IN GENERAL.—The aggregate amount ex-
 24 cluded from gross income of the taxpayer under sub-
 25 sections (a) and (d) with respect to lodging for any

1 taxable year shall not exceed \$50,000 (half such
2 amount in the case of a married individual filing a
3 separate return).

4 “(2) LIMITATION TO 1 HOME.—Subsections (a)
5 and (d) (separately and in combination) shall not
6 apply with respect to more than 1 residence of the
7 taxpayer at any given time. In the case of a joint re-
8 turn, the preceding sentence shall apply separately
9 to each spouse for any period during which each
10 spouse resides separate from the other spouse in a
11 residence which is provided in connection with the
12 employment of each spouse, respectively.

13 “(3) LIMITATION FOR HIGHLY COMPENSATED
14 EMPLOYEES.—

15 “(A) REDUCED FOR EXCESS COMPENSA-
16 TION.—In the case of an individual whose com-
17 pensation for the taxable year exceeds the
18 amount in effect under section 414(q)(1)(B)(i)
19 for the calendar in which such taxable year be-
20 gins, the \$50,000 amount under paragraph (1)
21 shall be reduced (but not below zero) by an
22 amount equal to 50 percent of such excess. For
23 purposes of the preceding sentence, the term
24 ‘compensation’ means wages (as defined in sec-
25 tion 3121(a) (without regard to the contribu-

1 apply to any sale or exchange by the taxpayer if,
2 during the 5-year period ending on the date of such
3 sale or exchange, there was any other sale or ex-
4 change by the taxpayer to which subsection (a) ap-
5 plied.”.

6 (c) PHASEOUT BASED ON MODIFIED ADJUSTED
7 GROSS INCOME.—Section 121 is amended by adding at
8 the end the following new subsection:

9 “(h) PHASEOUT BASED ON MODIFIED ADJUSTED
10 GROSS INCOME.—

11 “(1) IN GENERAL.—If the average modified ad-
12 justed gross income of the taxpayer for the taxable
13 year and the 2 preceding taxable years exceeds
14 \$250,000 (twice such amount in the case of a joint
15 return), the amount which would (but for this sub-
16 section) be excluded from gross income under sub-
17 section (a) for such taxable year shall be reduced
18 (but not below zero) by the amount of such excess.

19 “(2) MODIFIED ADJUSTED GROSS INCOME.—
20 For purposes of this subsection, the term ‘modified
21 adjusted gross income’ means, with respect to any
22 taxable year, adjusted gross income determined after
23 application of this section (but without regard to
24 subsection (b)(1) and this subsection).

1 “(3) SPECIAL RULE FOR JOINT RETURNS.—In
2 the case of a joint return, the average modified ad-
3 justed gross income of the taxpayer shall be deter-
4 mined without regard to any taxable year with re-
5 spect to which the taxpayer did not file a joint re-
6 turn.”.

7 (d) CONFORMING AMENDMENTS.—

8 (1) The last paragraph of section 121(b) (relat-
9 ing to exclusion of gain allocated to nonqualified
10 use) is redesignated as paragraph (5).

11 (2) The following provisions of section 121 are
12 each amended by striking “5-year period” each place
13 it appears therein and inserting “8-year period”:

14 (A) Subsection (b)(5)(C)(ii)(I) (as redesign-
15 ated by paragraph (1)).

16 (B) Subsection (c)(1)(B)(i)(I).

17 (C) Subsection (d)(7)(B).

18 (D) Subparagraphs (A) and (B) of sub-
19 section (d)(9).

20 (E) Subsection (d)(10)

21 (F) Subsection (d)(12)(A).

22 (3) Section 121(e)(1)(B)(ii) is amended by
23 striking “2 years” and inserting “5 years”:

1 (e) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to sales and exchanges after De-
3 cember 31, 2017.

4 **SEC. 1403. REPEAL OF EXCLUSION, ETC., FOR EMPLOYEE**
5 **ACHIEVEMENT AWARDS.**

6 (a) IN GENERAL.—Section 74 is amended by striking
7 subsection (e).

8 (b) REPEAL OF LIMITATION ON DEDUCTION.—Sec-
9 tion 274 is amended by striking subsection (j).

10 (c) CONFORMING AMENDMENTS.—

11 (1) Section 102(e)(2) is amended by striking
12 the first sentence.

13 (2) Section 414(n)(3)(C) is amended by strik-
14 ing “274(j),”.

15 (3) Section 414(t)(2) is amended by striking
16 “274(j),”.

17 (4) Section 3121(a)(20) is amended by striking
18 “74(c)”.

19 (5) Section 3231(e)(5) is amended by striking
20 “74(c),”.

21 (6) Section 3306(b)(16) is amended by striking
22 “74(c),”.

23 (7) Section 3401(a)(19) is amended by striking
24 “74(c),”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2017.

4 **SEC. 1404. REPEAL OF EXCLUSION FOR DEPENDENT CARE**
5 **ASSISTANCE PROGRAMS.**

6 (a) IN GENERAL.—Part III of subchapter B of chap-
7 ter 1 is amended by striking section 129 (and by striking
8 the item relating to such section in the table of sections
9 for such part).

10 (b) CONFORMING AMENDMENTS.—

11 (1) Section 414(n)(3)(C) is amended by strik-
12 ing “, 129”.

13 (2) Section 414(r)(1) is amended by striking
14 “sections 129(d)(8) and” and inserting “section”.

15 (3) Section 414(t)(2) is amended by striking “,
16 129”.

17 (4) Section 125(j)(6) is amended—

18 (A) by inserting “or” before “section
19 105(h)”, and

20 (B) by striking “, or paragraph (2), (3),
21 (4), or (8) of section 129(d)”.

22 (5) Section 3121(a)(18) is amended by striking
23 “129”.

24 (6) Section 3306(b)(13) is amended by striking
25 “129”.

1 (7) Section 3401(a)(18) is amended by striking
2 “129,”.

3 (8) Section 6039D(d)(1) is amended by striking
4 “, 129”.

5 (9) Section 6051(a) is amended by striking
6 paragraph (9).

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to taxable years beginning after
9 December 31, 2017.

10 **SEC. 1405. REPEAL OF EXCLUSION FOR QUALIFIED MOVING**
11 **EXPENSE REIMBURSEMENT.**

12 (a) IN GENERAL.—Section 132(a) is amended by
13 striking paragraph (6).

14 (b) CONFORMING AMENDMENTS.—

15 (1) Section 82 is amended by striking “Except
16 as provided in section 132(a)(6), there” and insert-
17 ing “There”.

18 (2) Section 132 is amended by striking sub-
19 section (g).

20 (3) Section 132(l) is amended by striking by
21 striking “subsections (e) and (g)” and inserting
22 “subsection (e)”.

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to taxable years beginning after
25 December 31, 2017.

1 **SEC. 1406. REPEAL OF EXCLUSION FOR ADOPTION ASSIST-**
2 **ANCE PROGRAMS.**

3 (a) **IN GENERAL.**—Part III of subchapter B of chap-
4 ter 1 is amended by striking section 137 (and by striking
5 the item relating to such section in the table of sections
6 for such part).

7 (b) **CONFORMING AMENDMENTS.**—

8 (1) Sections 414(n)(3)(C), 414(t)(2),
9 74(d)(2)(B), 86(b)(2)(A), 219(g)(3)(A)(ii) are each
10 amended by striking “, 137”.

11 (2) Section 1016(a), as amended by the pre-
12 ceding provision of this Act, is amended by striking
13 paragraph (26).

14 (3) Section 6039D(d)(1), as amended by the
15 preceding provisions of this Act, is amended—

16 (A) by striking “, or 137”, and

17 (B) by inserting “or” before “125”.

18 (c) **EFFECTIVE DATE.**—The amendments made by
19 this section shall apply to taxable years beginning after
20 December 31, 2017.

1 **Subtitle F—Simplification and Re-**
2 **form of Savings, Pensions, Re-**
3 **tirement**

4 **SEC. 1501. REPEAL OF SPECIAL RULE PERMITTING RE-**
5 **CHARACTERIZATION OF ROTH IRA CON-**
6 **TRIBUTIONS AS TRADITIONAL IRA CON-**
7 **TRIBUTIONS.**

8 (a) **IN GENERAL.**—Section 408A(d) is amended by
9 striking paragraph (6) and by redesignating paragraph
10 (7) as paragraph (6).

11 (b) **EFFECTIVE DATE.**—The amendments made by
12 this section shall apply to taxable years beginning after
13 December 31, 2017.

14 **SEC. 1502. REDUCTION IN MINIMUM AGE FOR ALLOWABLE**
15 **IN-SERVICE DISTRIBUTIONS.**

16 (a) **IN GENERAL.**—Section 401(a)(36) is amended by
17 striking “age 62” and inserting “age 59 ½”.

18 (b) **APPLICATION TO GOVERNMENTAL SECTION**
19 **457(b) PLANS.**—Clause (i) of section 457(d)(1)(A) is
20 amended by inserting “(in the case of a plan maintained
21 by an employer described in subsection (e)(1)(A), age 59
22 ½)” before the comma at the end.

23 (c) **EFFECTIVE DATE.**—The amendments made by
24 this section shall apply to plan years beginning after De-
25 cember 31, 2017.

1 **SEC. 1503. MODIFICATION OF RULES GOVERNING HARD-**
2 **SHIP DISTRIBUTIONS.**

3 (a) IN GENERAL.—Not later than 1 year after the
4 date of the enactment of this Act, the Secretary of the
5 Treasury shall modify Treasury Regulation section
6 1.401(k)–1(d)(3)(iv)(E) to—

7 (1) delete the 6-month prohibition on contribu-
8 tions imposed by paragraph (2) thereof, and

9 (2) make any other modifications necessary to
10 carry out the purposes of section
11 401(k)(2)(B)(i)(IV) of the Internal Revenue Code of
12 1986.

13 (b) EFFECTIVE DATE.—The revised regulations
14 under this section shall apply to plan years beginning after
15 December 31, 2017.

16 **SEC. 1504. MODIFICATION OF RULES RELATING TO HARD-**
17 **SHIP WITHDRAWALS FROM CASH OR DE-**
18 **FERRED ARRANGEMENTS.**

19 (a) IN GENERAL.—Section 401(k) is amended by
20 adding at the end the following:

21 “(14) SPECIAL RULES RELATING TO HARDSHIP
22 WITHDRAWALS.—For purposes of paragraph
23 (2)(B)(i)(IV)—

24 “(A) AMOUNTS WHICH MAY BE WITH-
25 DRAWN.—The following amounts may be dis-
26 tributed upon hardship of the employee:

1 “(i) Contributions to a profit-sharing
2 or stock bonus plan to which section
3 402(e)(3) applies.

4 “(ii) Qualified nonelective contribu-
5 tions (as defined in subsection (m)(4)(C)).

6 “(iii) Qualified matching contributions
7 described in paragraph (3)(D)(ii)(I).

8 “(iv) Earnings on any contributions
9 described in clause (i), (ii), or (iii).

10 “(B) NO REQUIREMENT TO TAKE AVAIL-
11 ABLE LOAN.—A distribution shall not be treat-
12 ed as failing to be made upon the hardship of
13 an employee solely because the employee does
14 not take any available loan under the plan.”.

15 (b) CONFORMING AMENDMENT.—Section
16 401(k)(2)(B)(i)(IV) is amended to read as follows:

17 “(IV) subject to the provisions of
18 paragraph (14), upon hardship of the
19 employee, or”.

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to plan years beginning after De-
22 cember 31, 2017.

1 **SEC. 1505. EXTENDED ROLLOVER PERIOD FOR THE ROLL-**
2 **OVER OF PLAN LOAN OFFSET AMOUNTS IN**
3 **CERTAIN CASES.**

4 (a) IN GENERAL.—Paragraph (3) of section 402(c)
5 is amended by adding at the end the following new sub-
6 paragraph:

7 “(C) ROLLOVER OF CERTAIN PLAN LOAN
8 OFFSET AMOUNTS.—

9 “(i) IN GENERAL.—In the case of a
10 qualified plan loan offset amount, para-
11 graph (1) shall not apply to any transfer
12 of such amount made after the due date
13 (including extensions) for filing the return
14 of tax for the taxable year in which such
15 amount is treated as distributed from a
16 qualified employer plan.

17 “(ii) QUALIFIED PLAN LOAN OFFSET
18 AMOUNT.—For purposes of this subpara-
19 graph, the term ‘qualified plan loan offset
20 amount’ means a plan loan offset amount
21 which is treated as distributed from a
22 qualified employer plan to a participant or
23 beneficiary solely by reason of—

24 “(I) the termination of the quali-
25 fied employer plan, or

1 “(II) the failure to meet the re-
2 payment terms of the loan from such
3 plan because of the separation from
4 service of the participant (whether
5 due to layoff, cessation of business,
6 termination of employment, or other-
7 wise).

8 “(iii) PLAN LOAN OFFSET AMOUNT.—
9 For purposes of clause (ii), the term ‘plan
10 loan offset amount’ means the amount by
11 which the participant’s accrued benefit
12 under the plan is reduced in order to repay
13 a loan from the plan.

14 “(iv) LIMITATION.—This subpara-
15 graph shall not apply to any plan loan off-
16 set amount unless such plan loan offset
17 amount relates to a loan to which section
18 72(p)(1) does not apply by reason of sec-
19 tion 72(p)(2).

20 “(v) QUALIFIED EMPLOYER PLAN.—
21 For purposes of this subsection, the term
22 ‘qualified employer plan’ has the meaning
23 given such term by section 72(p)(4).”.

1 (b) CONFORMING AMENDMENT.—Subparagraph (A)
2 of section 402(c)(3) is amended by striking “subpara-
3 graph (B)” and inserting “subparagraphs (B) and (C)”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to taxable years beginning after
6 December 31, 2017.

7 **SEC. 1506. MODIFICATION OF NONDISCRIMINATION RULES**
8 **TO PROTECT OLDER, LONGER SERVICE PAR-**
9 **TICIPANTS.**

10 (a) IN GENERAL.—Section 401 is amended—

11 (1) by redesignating subsection (o) as sub-
12 section (p), and

13 (2) by inserting after subsection (n) the fol-
14 lowing new subsection:

15 “(o) SPECIAL RULES FOR APPLYING NON-
16 DISCRIMINATION RULES TO PROTECT OLDER, LONGER
17 SERVICE AND GRANDFATHERED PARTICIPANTS.—

18 “(1) TESTING OF DEFINED BENEFIT PLANS
19 WITH CLOSED CLASSES OF PARTICIPANTS.—

20 “(A) BENEFITS, RIGHTS, OR FEATURES
21 PROVIDED TO CLOSED CLASSES.—A defined
22 benefit plan which provides benefits, rights, or
23 features to a closed class of participants shall
24 not fail to satisfy the requirements of sub-
25 section (a)(4) by reason of the composition of

1 such closed class or the benefits, rights, or fea-
2 tures provided to such closed class, if—

3 “(i) for the plan year as of which the
4 class closes and the 2 succeeding plan
5 years, such benefits, rights, and features
6 satisfy the requirements of subsection
7 (a)(4) (without regard to this subpara-
8 graph but taking into account the rules of
9 subparagraph (I)),

10 “(ii) after the date as of which the
11 class was closed, any plan amendment
12 which modifies the closed class or the ben-
13 efits, rights, and features provided to such
14 closed class does not discriminate signifi-
15 cantly in favor of highly compensated em-
16 ployees, and

17 “(iii) the class was closed before April
18 5, 2017, or the plan is described in sub-
19 paragraph (C).

20 “(B) AGGREGATE TESTING WITH DEFINED
21 CONTRIBUTION PLANS PERMITTED ON A BENE-
22 FITS BASIS.—

23 “(i) IN GENERAL.—For purposes of
24 determining compliance with subsection
25 (a)(4) and section 410(b), a defined benefit

1 plan described in clause (iii) may be aggre-
2 gated and tested on a benefits basis with
3 1 or more defined contribution plans, in-
4 cluding with the portion of 1 or more de-
5 fined contribution plans which—

6 “(I) provides matching contribu-
7 tions (as defined in subsection
8 (m)(4)(A)),

9 “(II) provides annuity contracts
10 described in section 403(b) which are
11 purchased with matching contribu-
12 tions or nonelective contributions, or

13 “(III) consists of an employee
14 stock ownership plan (within the
15 meaning of section 4975(e)(7)) or a
16 tax credit employee stock ownership
17 plan (within the meaning of section
18 409(a)).

19 “(ii) SPECIAL RULES FOR MATCHING
20 CONTRIBUTIONS.—For purposes of clause
21 (i), if a defined benefit plan is aggregated
22 with a portion of a defined contribution
23 plan providing matching contributions—

24 “(I) such defined benefit plan
25 must also be aggregated with any por-

1 tion of such defined contribution plan
2 which provides elective deferrals de-
3 scribed in subparagraph (A) or (C) of
4 section 402(g)(3), and

5 “**(II)** such matching contribu-
6 tions shall be treated in the same
7 manner as nonelective contributions,
8 including for purposes of applying the
9 rules of subsection (l).

10 “**(iii) PLANS DESCRIBED.**—A defined
11 benefit plan is described in this clause if—

12 “**(I)** the plan provides benefits to
13 a closed class of participants,

14 “**(II)** for the plan year as of
15 which the class closes and the 2 suc-
16 ceeding plan years, the plan satisfies
17 the requirements of section 410(b)
18 and subsection (a)(4) (without regard
19 to this subparagraph but taking into
20 account the rules of subparagraph
21 **(I)**),

22 “**(III)** after the date as of which
23 the class was closed, any plan amend-
24 ment which modifies the closed class
25 or the benefits provided to such closed

1 class does not discriminate signifi-
2 cantly in favor of highly compensated
3 employees, and

4 “(IV) the class was closed before
5 April 5, 2017, or the plan is described
6 in subparagraph (C).

7 “(C) PLANS DESCRIBED.—A plan is de-
8 scribed in this subparagraph if, taking into ac-
9 count any predecessor plan—

10 “(i) such plan has been in effect for
11 at least 5 years as of the date the class is
12 closed, and

13 “(ii) during the 5-year period pre-
14 ceding the date the class is closed, there
15 has not been a substantial increase in the
16 coverage or value of the benefits, rights, or
17 features described in subparagraph (A) or
18 in the coverage or benefits under the plan
19 described in subparagraph (B)(iii) (which-
20 ever is applicable).

21 “(D) DETERMINATION OF SUBSTANTIAL
22 INCREASE FOR BENEFITS, RIGHTS, AND FEA-
23 TURES.—In applying subparagraph (C)(ii) for
24 purposes of subparagraph (A)(iii), a plan shall
25 be treated as having had a substantial increase

1 in coverage or value of the benefits, rights, or
2 features described in subparagraph (A) during
3 the applicable 5-year period only if, during such
4 period—

5 “(i) the number of participants cov-
6 ered by such benefits, rights, or features
7 on the date such period ends is more than
8 50 percent greater than the number of
9 such participants on the first day of the
10 plan year in which such period began, or

11 “(ii) such benefits, rights, and fea-
12 tures have been modified by 1 or more
13 plan amendments in such a way that, as of
14 the date the class is closed, the value of
15 such benefits, rights, and features to the
16 closed class as a whole is substantially
17 greater than the value as of the first day
18 of such 5-year period, solely as a result of
19 such amendments.

20 “(E) DETERMINATION OF SUBSTANTIAL
21 INCREASE FOR AGGREGATE TESTING ON BENE-
22 FITS BASIS.—In applying subparagraph (C)(ii)
23 for purposes of subparagraph (B)(iii)(IV), a
24 plan shall be treated as having had a substan-
25 tial increase in coverage or benefits during the

1 applicable 5-year period only if, during such pe-
2 riod—

3 “(i) the number of participants bene-
4 fitting under the plan on the date such pe-
5 riod ends is more than 50 percent greater
6 than the number of such participants on
7 the first day of the plan year in which such
8 period began, or

9 “(ii) the average benefit provided to
10 such participants on the date such period
11 ends is more than 50 percent greater than
12 the average benefit provided on the first
13 day of the plan year in which such period
14 began.

15 “(F) CERTAIN EMPLOYEES DIS-
16 REGARDED.—For purposes of subparagraphs
17 (D) and (E), any increase in coverage or value
18 or in coverage or benefits, whichever is applica-
19 ble, which is attributable to such coverage and
20 value or coverage and benefits provided to em-
21 ployees—

22 “(i) who became participants as a re-
23 sult of a merger, acquisition, or similar
24 event which occurred during the 7-year pe-

1 riod preceding the date the class is closed,
2 or

3 “(ii) who became participants by rea-
4 son of a merger of the plan with another
5 plan which had been in effect for at least
6 5 years as of the date of the merger,

7 shall be disregarded, except that clause (ii)
8 shall apply for purposes of subparagraph (D)
9 only if, under the merger, the benefits, rights,
10 or features under 1 plan are conformed to the
11 benefits, rights, or features of the other plan
12 prospectively.

13 “(G) RULES RELATING TO AVERAGE BEN-
14 EFIT.—For purposes of subparagraph (E)—

15 “(i) the average benefit provided to
16 participants under the plan will be treated
17 as having remained the same between the
18 2 dates described in subparagraph (E)(ii)
19 if the benefit formula applicable to such
20 participants has not changed between such
21 dates, and

22 “(ii) if the benefit formula applicable
23 to 1 or more participants under the plan
24 has changed between such 2 dates, then
25 the average benefit under the plan shall be

1 considered to have increased by more than
2 50 percent only if—

3 “(I) the total amount determined
4 under section 430(b)(1)(A)(i) for all
5 participants benefitting under the
6 plan for the plan year in which the 5-
7 year period described in subparagraph
8 (E) ends, exceeds

9 “(II) the total amount deter-
10 mined under section 430(b)(1)(A)(i)
11 for all such participants for such plan
12 year, by using the benefit formula in
13 effect for each such participant for
14 the first plan year in such 5-year pe-
15 riod, by more than 50 percent.

16 In the case of a CSEC plan (as defined in
17 section 414(y)), the normal cost of the
18 plan (as determined under section
19 433(j)(1)(B)) shall be used in lieu of the
20 amount determined under section
21 430(b)(1)(A)(i).

22 “(H) TREATMENT AS SINGLE PLAN.—For
23 purposes of subparagraphs (E) and (G), a plan
24 described in section 413(c) shall be treated as

1 a single plan rather than as separate plans
2 maintained by each participating employer.

3 “(I) SPECIAL RULES.—For purposes of
4 subparagraphs (A)(i) and (B)(iii)(II), the fol-
5 lowing rules shall apply:

6 “(i) In applying section 410(b)(6)(C),
7 the closing of the class of participants shall
8 not be treated as a significant change in
9 coverage under section 410(b)(6)(C)(i)(II).

10 “(ii) 2 or more plans shall not fail to
11 be eligible to be aggregated and treated as
12 a single plan solely by reason of having dif-
13 ferent plan years.

14 “(iii) Changes in the employee popu-
15 lation shall be disregarded to the extent at-
16 tributable to individuals who become em-
17 ployees or cease to be employees, after the
18 date the class is closed, by reason of a
19 merger, acquisition, divestiture, or similar
20 event.

21 “(iv) Aggregation and all other testing
22 methodologies otherwise applicable under
23 subsection (a)(4) and section 410(b) may
24 be taken into account.

1 The rule of clause (ii) shall also apply for pur-
2 poses of determining whether plans to which
3 subparagraph (B)(i) applies may be aggregated
4 and treated as 1 plan for purposes of deter-
5 mining whether such plans meet the require-
6 ments of subsection (a)(4) and section 410(b).

7 “(J) SPUN-OFF PLANS.—For purposes of
8 this paragraph, if a portion of a defined benefit
9 plan described in subparagraph (A) or (B)(iii)
10 is spun off to another employer and the spun-
11 off plan continues to satisfy the requirements
12 of—

13 “(i) subparagraph (A)(i) or
14 (B)(iii)(II), whichever is applicable, if the
15 original plan was still within the 3-year pe-
16 riod described in such subparagraph at the
17 time of the spin off, and

18 “(ii) subparagraph (A)(ii) or
19 (B)(iii)(III), whichever is applicable,
20 the treatment under subparagraph (A) or (B)
21 of the spun-off plan shall continue with respect
22 to such other employer.

23 “(2) TESTING OF DEFINED CONTRIBUTION
24 PLANS.—

1 “(A) TESTING ON A BENEFITS BASIS.—A
2 defined contribution plan shall be permitted to
3 be tested on a benefits basis if—

4 “(i) such defined contribution plan
5 provides make-whole contributions to a
6 closed class of participants whose accruals
7 under a defined benefit plan have been re-
8 duced or eliminated,

9 “(ii) for the plan year of the defined
10 contribution plan as of which the class eli-
11 gible to receive such make-whole contribu-
12 tions closes and the 2 succeeding plan
13 years, such closed class of participants sat-
14 isfies the requirements of section
15 410(b)(2)(A)(i) (determined by applying
16 the rules of paragraph (1)(I)),

17 “(iii) after the date as of which the
18 class was closed, any plan amendment to
19 the defined contribution plan which modi-
20 fies the closed class or the allocations, ben-
21 efits, rights, and features provided to such
22 closed class does not discriminate signifi-
23 cantly in favor of highly compensated em-
24 ployees, and

1 “(iv) the class was closed before April
2 5, 2017, or the defined benefit plan under
3 clause (i) is described in paragraph (1)(C)
4 (as applied for purposes of paragraph
5 (1)(B)(iii)(IV)).

6 “(B) AGGREGATION WITH PLANS INCLUD-
7 ING MATCHING CONTRIBUTIONS.—

8 “(i) IN GENERAL.—With respect to 1
9 or more defined contribution plans de-
10 scribed in subparagraph (A), for purposes
11 of determining compliance with subsection
12 (a)(4) and section 410(b), the portion of
13 such plans which provides make-whole con-
14 tributions or other nonelective contribu-
15 tions may be aggregated and tested on a
16 benefits basis with the portion of 1 or
17 more other defined contribution plans
18 which—

19 “(I) provides matching contribu-
20 tions (as defined in subsection
21 (m)(4)(A)),

22 “(II) provides annuity contracts
23 described in section 403(b) which are
24 purchased with matching contribu-
25 tions or nonelective contributions, or

1 “(III) consists of an employee
2 stock ownership plan (within the
3 meaning of section 4975(e)(7)) or a
4 tax credit employee stock ownership
5 plan (within the meaning of section
6 409(a)).

7 “(ii) SPECIAL RULES FOR MATCHING
8 CONTRIBUTIONS.—Rules similar to the
9 rules of paragraph (1)(B)(ii) shall apply
10 for purposes of clause (i).

11 “(C) SPECIAL RULES FOR TESTING DE-
12 FINED CONTRIBUTION PLAN FEATURES PRO-
13 VIDING MATCHING CONTRIBUTIONS TO CERTAIN
14 OLDER, LONGER SERVICE PARTICIPANTS.—In
15 the case of a defined contribution plan which
16 provides benefits, rights, or features to a closed
17 class of participants whose accruals under a de-
18 fined benefit plan have been reduced or elimi-
19 nated, the plan shall not fail to satisfy the re-
20 quirements of subsection (a)(4) solely by reason
21 of the composition of the closed class or the
22 benefits, rights, or features provided to such
23 closed class if the defined contribution plan and
24 defined benefit plan otherwise meet the require-
25 ments of subparagraph (A) but for the fact that

1 the make-whole contributions under the defined
2 contribution plan are made in whole or in part
3 through matching contributions.

4 “(D) SPUN-OFF PLANS.—For purposes of
5 this paragraph, if a portion of a defined con-
6 tribution plan described in subparagraph (A) or
7 (C) is spun off to another employer, the treat-
8 ment under subparagraph (A) or (C) of the
9 spun-off plan shall continue with respect to the
10 other employer if such plan continues to comply
11 with the requirements of clauses (ii) (if the
12 original plan was still within the 3-year period
13 described in such clause at the time of the spin
14 off) and (iii) of subparagraph (A), as deter-
15 mined for purposes of subparagraph (A) or (C),
16 whichever is applicable.

17 “(3) DEFINITIONS.—For purposes of this sub-
18 section—

19 “(A) MAKE-WHOLE CONTRIBUTIONS.—Ex-
20 cept as otherwise provided in paragraph (2)(C),
21 the term ‘make-whole contributions’ means non-
22 elective allocations for each employee in the
23 class which are reasonably calculated, in a con-
24 sistent manner, to replace some or all of the re-
25 tirement benefits which the employee would

1 have received under the defined benefit plan
2 and any other plan or qualified cash or deferred
3 arrangement under subsection (k)(2) if no
4 change had been made to such defined benefit
5 plan and such other plan or arrangement. For
6 purposes of the preceding sentence, consistency
7 shall not be required with respect to employees
8 who were subject to different benefit formulas
9 under the defined benefit plan.

10 “(B) REFERENCES TO CLOSED CLASS OF
11 PARTICIPANTS.—References to a closed class of
12 participants and similar references to a closed
13 class shall include arrangements under which 1
14 or more classes of participants are closed, ex-
15 cept that 1 or more classes of participants
16 closed on different dates shall not be aggre-
17 gated for purposes of determining the date any
18 such class was closed.

19 “(C) HIGHLY COMPENSATED EMPLOYEE.—
20 The term ‘highly compensated employee’ has
21 the meaning given such term in section
22 414(q).”.

23 (b) PARTICIPATION REQUIREMENTS.—Paragraph
24 (26) of section 401(a) is amended by adding at the end
25 the following new subparagraph:

1 “(I) PROTECTED PARTICIPANTS.—

2 “(i) IN GENERAL.—A plan shall be
3 deemed to satisfy the requirements of sub-
4 paragraph (A) if—

5 “(I) the plan is amended—

6 “(aa) to cease all benefit ac-
7 cruals, or

8 “(bb) to provide future ben-
9 efit accruals only to a closed
10 class of participants,

11 “(II) the plan satisfies subpara-
12 graph (A) (without regard to this sub-
13 paragraph) as of the effective date of
14 the amendment, and

15 “(III) the amendment was adopt-
16 ed before April 5, 2017, or the plan is
17 described in clause (ii).

18 “(ii) PLANS DESCRIBED.—A plan is
19 described in this clause if the plan would
20 be described in subsection (o)(1)(C), as ap-
21 plied for purposes of subsection
22 (o)(1)(B)(iii)(IV) and by treating the effec-
23 tive date of the amendment as the date the
24 class was closed for purposes of subsection
25 (o)(1)(C).

1 “(iii) SPECIAL RULES.—For purposes
2 of clause (i)(II), in applying section
3 410(b)(6)(C), the amendments described in
4 clause (i) shall not be treated as a signifi-
5 cant change in coverage under section
6 410(b)(6)(C)(i)(II).

7 “(iv) SPUN-OFF PLANS.—For pur-
8 poses of this subparagraph, if a portion of
9 a plan described in clause (i) is spun off to
10 another employer, the treatment under
11 clause (i) of the spun-off plan shall con-
12 tinue with respect to the other employer.”.

13 (c) EFFECTIVE DATE.—

14 (1) IN GENERAL.—Except as provided in para-
15 graph (2), the amendments made by this section
16 shall take effect on the date of the enactment of this
17 Act, without regard to whether any plan modifica-
18 tions referred to in such amendments are adopted or
19 effective before, on, or after such date of enactment.

20 (2) SPECIAL RULES.—

21 (A) ELECTION OF EARLIER APPLICA-
22 TION.—At the election of the plan sponsor, the
23 amendments made by this section shall apply to
24 plan years beginning after December 31, 2013.

1 (B) CLOSED CLASSES OF PARTICIPANTS.—
2 For purposes of paragraphs (1)(A)(iii),
3 (1)(B)(iii)(IV), and (2)(A)(iv) of section 401(o)
4 of the Internal Revenue Code of 1986 (as added
5 by this section), a closed class of participants
6 shall be treated as being closed before April 5,
7 2017, if the plan sponsor’s intention to create
8 such closed class is reflected in formal written
9 documents and communicated to participants
10 before such date.

11 (C) CERTAIN POST-ENACTMENT PLAN
12 AMENDMENTS.—A plan shall not be treated as
13 failing to be eligible for the application of sec-
14 tion 401(o)(1)(A), 401(o)(1)(B)(iii), or
15 401(a)(26) of such Code (as added by this sec-
16 tion) to such plan solely because in the case
17 of—

18 (i) such section 401(o)(1)(A), the plan
19 was amended before the date of the enact-
20 ment of this Act to eliminate 1 or more
21 benefits, rights, or features, and is further
22 amended after such date of enactment to
23 provide such previously eliminated benefits,
24 rights, or features to a closed class of par-
25 ticipants, or

1 (ii) such section 401(o)(1)(B)(iii) or
2 section 401(a)(26), the plan was amended
3 before the date of the enactment of this
4 Act to cease all benefit accruals, and is
5 further amended after such date of enact-
6 ment to provide benefit accruals to a closed
7 class of participants. Any such section
8 shall only apply if the plan otherwise meets
9 the requirements of such section and in ap-
10 plying such section, the date the class of
11 participants is closed shall be the effective
12 date of the later amendment.

13 **Subtitle G—Estate, Gift, and Gen-**
14 **eration-skipping Transfer Taxes**

15 **SEC. 1601. INCREASE IN CREDIT AGAINST ESTATE, GIFT,**
16 **AND GENERATION-SKIPPING TRANSFER TAX.**

17 (a) IN GENERAL.—Section 2010(c)(3) is amended by
18 striking “\$5,000,000” and inserting “\$10,000,000”.

19 (b) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to estates of decedents dying, gen-
21 eration-skipping transfers, and gifts made, after Decem-
22 ber 31, 2017.

23 **SEC. 1602. REPEAL OF ESTATE AND GENERATION-SKIPPING**
24 **TRANSFER TAXES.**

25 (a) ESTATE TAX REPEAL.—

1 (1) IN GENERAL.—Subchapter C of chapter 11
2 is amended by adding at the end the following new
3 section:

4 **“SEC. 2210. TERMINATION.**

5 “(a) IN GENERAL.—Except as provided in subsection
6 (b), this chapter shall not apply to the estates of decedents
7 dying after December 31, 2023.

8 “(b) CERTAIN DISTRIBUTIONS FROM QUALIFIED
9 DOMESTIC TRUSTS.—In applying section 2056A with re-
10 spect to the surviving spouse of a decedent dying on or
11 before December 31, 2023—

12 “(1) section 2056A(b)(1)(A) shall not apply to
13 distributions made after the 10-year period begin-
14 ning on such date, and

15 “(2) section 2056A(b)(1)(B) shall not apply
16 after such date.”.

17 (2) CONFORMING AMENDMENTS.—Section
18 1014(b) is amended—

19 (A) in paragraph (6), by striking “was in-
20 cludible in determining” and all that follows
21 through the end and inserting “was includible
22 (or would have been includible without regard
23 to section 2210) in determining the value of the
24 decedent’s gross estate under chapter 11 of
25 subtitle B”,

1 (B) in paragraph (9), by striking “required
 2 to be included” through “Code of 1939” and
 3 inserting “required to be included (or would
 4 have been required to be included without re-
 5 gard to section 2210) in determining the value
 6 of the decedent’s gross estate under chapter 11
 7 of subtitle B”, and

8 (C) in paragraph (10), by striking “Prop-
 9 erty includible in the gross estate” and insert-
 10 ing “Property includible (or which would have
 11 been includible without regard to section 2210)
 12 in the gross estate”.

13 (3) CLERICAL AMENDMENT.—The table of sec-
 14 tions for subchapter C of chapter 11 is amended by
 15 adding at the end the following new item:

“Sec. 2210. Termination.”.

16 (b) GENERATION-SKIPPING TRANSFER TAX RE-
 17 PEAL.—

18 (1) IN GENERAL.—Subchapter G of chapter 13
 19 of subtitle B of such Code is amended by adding at
 20 the end the following new section:

21 **“SEC. 2664. TERMINATION.**

22 “This chapter shall not apply to generation-skipping
 23 transfers after December 31, 2023.”.

24 (2) CLERICAL AMENDMENT.—The table of sec-
 25 tions for subchapter G of chapter 13 of such Code

1 is amended by adding at the end the following new
 2 item:

“Sec. 2664. Termination.”.

3 (c) CONFORMING AMENDMENTS RELATED TO GIFT
 4 TAX.—

5 (1) COMPUTATION OF GIFT TAX.—Section 2502
 6 is amended by adding at the end the following new
 7 subsection:

8 “(d) GIFTS MADE AFTER 2023.—

9 “(1) IN GENERAL.—In the case of a gift made
 10 after December 31, 2023, subsection (a) shall be ap-
 11 plied by substituting ‘subsection (d)(2)’ for ‘section
 12 2001(e)’ and ‘such subsection’ for ‘such section’.

13 “(2) RATE SCHEDULE.—

| “If the amount with respect to which the tentative tax to be computed is: | The tentative tax is: |
|--|--|
| Not over \$10,000 | 18% of such amount. |
| Over \$10,000 but not over \$20,000 | \$1,800, plus 20% of the excess over \$10,000. |
| Over \$20,000 but not over \$40,000 | \$3,800, plus 22% of the excess over \$20,000. |
| Over \$40,000 but not over \$60,000 | \$8,200, plus 24% of the excess over \$40,000. |
| Over \$60,000 but not over \$80,000 | \$13,000, plus 26% of the excess over \$60,000. |
| Over \$80,000 but not over \$100,000 | \$18,200, plus 28% of the excess over \$80,000. |
| Over \$100,000 but not over \$150,000 | \$23,800, plus 30% of the excess over \$100,000. |
| Over \$150,000 but not over \$250,000 | \$38,800, plus 32% of the excess of \$150,000. |

| | |
|---|---|
| Over \$250,000 but not over \$500,000 | \$70,800, plus 34% of the excess over \$250,000. |
| Over \$500,000 | \$155,800, plus 35% of the excess of \$500,000.”. |

1 (2) LIFETIME GIFT EXEMPTION.—Section 2505
 2 is amended by adding at the end the following new
 3 subsection:

4 “(d) GIFTS MADE AFTER 2023.—

5 “(1) IN GENERAL.—In the case of a gift made
 6 after December 31, 2023, subsection (a)(1) shall be
 7 applied by substituting ‘the amount of the tentative
 8 tax which would be determined under the rate sched-
 9 ule set forth in section 2502(a)(2) if the amount
 10 with respect to which such tentative tax is to be
 11 computed were \$10,000,000’ for ‘the applicable
 12 credit amount in effect under section 2010(c) which
 13 would apply if the donor died as of the end of the
 14 calendar year’.

15 “(2) INFLATION ADJUSTMENT.—

16 “(A) IN GENERAL.—In the case of any cal-
 17 endar year after 2023, the dollar amount in
 18 subsection (a)(1) (after application of this sub-
 19 section) shall be increased by an amount equal
 20 to—

21 “(i) such dollar amount, multiplied by

1 “(ii) the cost-of-living adjustment de-
2 termined under section 1(f)(3) for such
3 calendar year by substituting ‘calendar
4 year 2011’ for ‘calendar year 1992’ in sub-
5 paragraph (B) thereof.

6 “(B) ROUNDING.—If any amount as ad-
7 justed under paragraph (1) is not a multiple of
8 \$10,000, such amount shall be rounded to the
9 nearest multiple of \$10,000.”.

10 (3) OTHER CONFORMING AMENDMENTS RE-
11 LATED TO GIFT TAX.—Section 2801 is amended by
12 adding at the end the following new subsection:
13 striking and inserting “section 2502(a)(2)”

14 “(g) GIFTS RECEIVED AFTER 2023.—In the case of
15 a gift received after December 31, 2023, subsection (a)(1)
16 shall be applied by substituting ‘section 2502(a)(2)’ for
17 ‘section 2001(c) as in effect on the date of such receipt’.”.

18 (d) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to estates of decedents dying, gen-
20 eration-skipping transfers, and gifts made, after Decem-
21 ber 31, 2023.

1 **TITLE II—ALTERNATIVE**
2 **MINIMUM TAX REPEAL**

3 **SEC. 2001. REPEAL OF ALTERNATIVE MINIMUM TAX.**

4 (a) IN GENERAL.—Subchapter A of chapter 1 is
5 amended by striking part VI (and by striking the item
6 relating to such part in the table of parts for subchapter
7 A).

8 (b) CREDIT FOR PRIOR YEAR MINIMUM TAX LIABIL-
9 ITY.—

10 (1) LIMITATION.—Subsection (c) of section 53
11 is amended to read as follows:

12 “(c) LIMITATION.—The credit allowable under sub-
13 section (a) shall not exceed the regular tax liability of the
14 taxpayer reduced by the sum of the credits allowed under
15 subparts A, B, and D.”.

16 (2) CREDITS TREATED AS REFUNDABLE.—Sec-
17 tion 53 is amended by adding at the end the fol-
18 lowing new subsection:

19 “(e) PORTION OF CREDIT TREATED AS REFUND-
20 ABLE.—

21 “(1) IN GENERAL.—In the case of any taxable
22 year beginning in 2019, 2020, 2021, or 2022, the
23 limitation under subsection (c) shall be increased by
24 the AMT refundable credit amount for such year.

1 “(2) AMT REFUNDABLE CREDIT AMOUNT.—
2 For purposes of paragraph (1), the AMT refundable
3 credit amount is an amount equal to 50 percent
4 (100 percent in the case of a taxable year beginning
5 in 2022) of the excess (if any) of—

6 “(A) the minimum tax credit determined
7 under subsection (b) for the taxable year, over

8 “(B) the minimum tax credit allowed
9 under subsection (a) for such year (before the
10 application of this subsection for such year).

11 “(3) CREDIT REFUNDABLE.—For purposes of
12 this title (other than this section), the credit allowed
13 by reason of this subsection shall be treated as a
14 credit allowed under subpart C (and not this sub-
15 part).

16 “(4) SHORT TAXABLE YEARS.—In the case of
17 any taxable year of less than 365 days, the AMT re-
18 fundable credit amount determined under paragraph
19 (2) with respect to such taxable year shall be the
20 amount which bears the same ratio to such amount
21 determined without regard to this paragraph as the
22 number of days in such taxable year bears to 365.”.

23 (3) TREATMENT OF REFERENCES.—Section
24 53(d) is amended by adding at the end the following
25 new paragraph:

1 “(3) AMT TERM REFERENCES.—Any references
2 in this subsection to section 55, 56, or 57 shall be
3 treated as a reference to such section as in effect be-
4 fore its repeal by the Tax Cuts and Jobs Act.”.

5 (c) CONFORMING AMENDMENTS RELATED TO AMT
6 REPEAL.—

7 (1) Section 2(d) is amended by striking “sec-
8 tions 1 and 55” and inserting “section 1”.

9 (2) Section 5(a) is amended by striking para-
10 graph (4).

11 (3) Section 11(d) is amended by striking “the
12 taxes imposed by subsection (a) and section 55” and
13 inserting “the tax imposed by subsection (a)”.

14 (4) Section 12 is amended by striking para-
15 graph (7).

16 (5) Section 26(a) is amended to read as follows:

17 “(a) LIMITATION BASED ON AMOUNT OF TAX.—The
18 aggregate amount of credits allowed by this subpart for
19 the taxable year shall not exceed the taxpayer’s regular
20 tax liability for the taxable year.”.

21 (6) Section 26(b)(2) is amended by striking
22 subparagraph (A).

23 (7) Section 26 is amended by striking sub-
24 section (c).

25 (8) Section 38(c) is amended—

1 (A) by striking paragraphs (1) through
2 (5),

3 (B) by redesignating paragraph (6) as
4 paragraph (2),

5 (C) by inserting before paragraph (2) (as
6 so redesignated) the following new paragraph:

7 “(1) IN GENERAL.—The credit allowed under
8 subsection (a) for any taxable year shall not exceed
9 the excess (if any) of—

10 “(A) the sum of—

11 “(i) so much of the regular tax liabil-
12 ity as does not exceed \$25,000, plus

13 “(ii) 75 percent of so much of the reg-
14 ular tax liability as exceeds \$25,000, over

15 “(B) the sum of the credits allowable
16 under subparts A and B of this part.”, and

17 (D) by striking “subparagraph (B) of
18 paragraph (1)” each place it appears in para-
19 graph (2) (as so redesignated) and inserting
20 “clauses (i) and (ii) of paragraph (1)(A)”.

21 (9) Section 39(a) is amended—

22 (A) by striking “or the eligible small busi-
23 ness credits” in paragraph (3)(A), and

24 (B) by striking paragraph (4).

1 (10) Section 45D(g)(4)(B) is amended by strik-
2 ing “or for purposes of section 55”.

3 (11) Section 54(c)(1) is amended to read as fol-
4 lows:

5 “(1) regular tax liability (as defined in section
6 26(b)), over”.

7 (12) Section 54A(c)(1)(A) is amended to read
8 as follows:

9 “(A) regular tax liability (as defined in
10 section 26(b)), over”.

11 (13) Section 148(b)(3) is amended to read as
12 follows:

13 “(3) TAX-EXEMPT BONDS NOT TREATED AS IN-
14 VESTMENT PROPERTY.—The term ‘investment prop-
15 erty’ does not include any tax-exempt bond.”.

16 (14) Section 168(k)(2) is amended by striking
17 subparagraph (G).

18 (15) Section 168(k) is amended by striking
19 paragraph (4).

20 (16) Section 168(k)(5) is amended by striking
21 subparagraph (E).

22 (17) Section 168(m)(2)(B)(i) is amended by
23 striking “(determined without regard to paragraph
24 (4) thereof)”.

1 (18) Section 168(m)(2) is amended by striking
2 subparagraph (D).

3 (19) Section 173 is amended by striking sub-
4 section (b).

5 (20) Section 174(f) is amended to read as fol-
6 lows:

7 “(f) CROSS REFERENCE.—For adjustments to basis
8 of property for amounts allowed as deductions as deferred
9 expenses under subsection (b), see section 1016(a)(14).”.

10 (21) Section 263(c) is amended by striking
11 “section 59(e) or 291” and inserting “section 291”.

12 (22) Section 263A(c) is amended by striking
13 paragraph (6) and by redesignating paragraph (7)
14 (as amended) as paragraph (6).

15 (23) Section 382(l) is amended by striking
16 paragraph (7) and by redesignating paragraph (8)
17 as paragraph (7).

18 (24) Section 443 is amended by striking sub-
19 section (d) and by redesignating subsection (e) as
20 subsection (d).

21 (25) Section 616 is amended by striking sub-
22 section (e).

23 (26) Section 617 is amended by striking sub-
24 section (i).

25 (27) Section 641(c) is amended—

1 (A) in paragraph (2) by striking subpara-
2 graph (B) and by redesignating subparagraphs
3 (C) and (D) as subparagraphs (B) and (C), re-
4 spectively, and

5 (B) in paragraph (3), by striking “para-
6 graph (2)(C)” and inserting “paragraph
7 (2)(B)”.

8 (28) Subsections (b) and (c) of section 666 are
9 each amended by striking “(other than the tax im-
10 posed by section 55)”.

11 (29) Section 848 is amended by striking sub-
12 section (i).

13 (30) Section 860E(a) is amended by striking
14 paragraph (4).

15 (31) Section 871(b)(1) is amended by striking
16 “or 55”.

17 (32) Section 882(a)(1) is amended by striking
18 “55,”.

19 (33) Section 897(a) is amended to read as fol-
20 lows:

21 “(a) TREATMENT AS EFFECTIVELY CONNECTED
22 WITH UNITED STATES TRADE OR BUSINESS.—For pur-
23 poses of this title, gain or loss of a nonresident alien indi-
24 vidual or a foreign corporation from the disposition of a

1 United States real property interest shall be taken into
2 account—

3 “(1) in the case of a nonresident alien indi-
4 vidual, under section 871(b)(1), or

5 “(2) in the case of a foreign corporation, under
6 section 882(a)(1),

7 as if the taxpayer were engaged in a trade or business
8 within the United States during the taxable year and as
9 if such gain or loss were effectively connected with such
10 trade or business.”.

11 (34) Section 904(k) is amended to read as fol-
12 lows:

13 “(k) CROSS REFERENCE.—For increase of limitation
14 under subsection (a) for taxes paid with respect to
15 amounts received which were included in the gross income
16 of the taxpayer for a prior taxable year as a United States
17 shareholder with respect to a controlled foreign corpora-
18 tion, see section 960(b).”.

19 (35) Section 911(f) is amended to read as fol-
20 lows:

21 “(f) DETERMINATION OF TAX LIABILITY.—

22 “(1) IN GENERAL.—If, for any taxable year,
23 any amount is excluded from gross income of a tax-
24 payer under subsection (a), then, notwithstanding
25 section 1, if such taxpayer has taxable income for

1 such taxable year, the tax imposed by section 1 for
2 such taxable year shall be equal to the excess (if
3 any) of—

4 “(A) the tax which would be imposed by
5 section 1 for such taxable year if the taxpayer’s
6 taxable income were increased by the amount
7 excluded under subsection (a) for such taxable
8 year, over

9 “(B) the tax which would be imposed by
10 section 1 for such taxable year if the taxpayer’s
11 taxable income were equal to the amount ex-
12 cluded under subsection (a) for such taxable
13 year.

14 For purposes of this paragraph, the amount ex-
15 cluded under subsection (a) shall be reduced by the
16 aggregate amount of any deductions or exclusions
17 disallowed under subsection (d)(6) with respect to
18 such excluded amount.

19 “(2) TREATMENT OF CAPITAL GAIN EXCESS.—

20 “(A) IN GENERAL.—In applying section
21 1(h) for purposes of determining the tax under
22 paragraph (1)(A) for any taxable year in which,
23 without regard to this subsection, the tax-
24 payer’s net capital gain exceeds taxable income

1 (hereafter in this subparagraph referred to as
2 the capital gain excess)—

3 “(i) the taxpayer’s net capital gain
4 (determined without regard to section
5 1(h)(11)) shall be reduced (but not below
6 zero) by such capital gain excess,

7 “(ii) the taxpayer’s qualified dividend
8 income shall be reduced by so much of
9 such capital gain excess as exceeds the tax-
10 payer’s net capital gain (determined with-
11 out regard to section 1(h)(11) and the re-
12 duction under clause (i)), and

13 “(iii) adjusted net capital gain,
14 unrecaptured section 1250 gain, and 28-
15 percent rate gain shall each be determined
16 after increasing the amount described in
17 section 1(h)(4)(B) by such capital gain ex-
18 cess.

19 “(B) DEFINITIONS.—Terms used in this
20 paragraph which are also used in section 1(h)
21 shall have the respective meanings given such
22 terms by section 1(h).”.

23 (36) Section 962(a)(1) is amended—

24 (A) by striking “sections 1 and 55” and
25 inserting “section 1”, and

1 (B) by striking “sections 11 and 55” and
2 inserting “section 11”.

3 (37) Section 1016(a) is amended by striking
4 paragraph (20).

5 (38) Section 1202(a)(4) is amended by insert-
6 ing “and” at the end of subparagraph (A), by strik-
7 ing “, and” and inserting a period at the end of sub-
8 paragraph (B), and by striking subparagraph (C).

9 (39) Section 1374(b)(3)(B) is amended by
10 striking the last sentence thereof.

11 (40) Section 1561(a) is amended—

12 (A) by inserting “and” at the end of para-
13 graph (1), by striking “, and” at the end of
14 paragraph (2) and inserting a period, and by
15 striking paragraph (3), and

16 (B) by striking the last sentence.

17 (41) Section 6015(d)(2)(B) is amended by
18 striking “or 55”.

19 (42) Section 6211(b)(4)(A) is amended by
20 striking “, 168(k)(4)”.

21 (43) Section 6425(c)(1)(A) is amended to read
22 as follows:

23 “(A) the tax imposed under section 11 or
24 subchapter L of chapter 1, whichever is applica-
25 ble, over”.

1 (44) Section 6654(d)(2) is amended—

2 (A) in clause (i) of subparagraph (B), by
3 striking “, alternative minimum taxable in-
4 come,” and

5 (B) in clause (i) of subparagraph (C), by
6 striking “, alternative minimum taxable in-
7 come,”.

8 (45) Section 6655(e)(2)(B)(i) is amended by
9 striking “The taxable income and alternative min-
10 imum taxable income shall” and inserting “Taxable
11 income shall”.

12 (46) Section 6655(g)(1)(A) is amended by add-
13 ing “plus” at the end of clause (i), by striking clause
14 (ii), and by redesignating clause (iii) as clause (ii).

15 (47) Section 6662(e)(3)(C) is amended by strik-
16 ing “the regular tax (as defined in section 55(c))”
17 and inserting “the regular tax liability (as defined in
18 section 26(b))”.

19 (d) EFFECTIVE DATES.—

20 (1) IN GENERAL.—Except as otherwise pro-
21 vided in this subsection, the amendments made by
22 this section shall apply to taxable years beginning
23 after December 31, 2017.

24 (2) PRIOR ELECTIONS WITH RESPECT TO CER-
25 TAIN TAX PREFERENCES.—So much of the amend-

1 ment made by subsection (a) as relates to the repeal
2 of section 59(e) of the Internal Revenue Code of
3 1986 shall apply to amounts paid or incurred after
4 December 31, 2017.

5 (3) TREATMENT OF NET OPERATING LOSS
6 CARRYBACKS.—For purposes of section 56(d) of the
7 Internal Revenue Code of 1986 (as in effect before
8 its repeal), the amount of any net operating loss
9 which may be carried back from a taxable year be-
10 ginning after December 31, 2017, to taxable years
11 beginning before January 1, 2018, shall be deter-
12 mined without regard to any adjustments under sec-
13 tion 56(d)(2)(A) of such Code (as so in effect).

14 **TITLE III—BUSINESS TAX** 15 **REFORM**

16 **Subtitle A—Tax Rates**

17 **SEC. 3001. REDUCTION IN CORPORATE TAX RATE.**

18 (a) IN GENERAL.—Section 11(b) is amended to read
19 as follows:

20 “(b) AMOUNT OF TAX.—

21 “(1) IN GENERAL.—Except as otherwise pro-
22 vided in this subsection, the amount of the tax im-
23 posed by subsection (a) shall be 20 percent of tax-
24 able income.

1 “(2) SPECIAL RULE FOR PERSONAL SERVICE
2 CORPORATIONS.—

3 “(A) IN GENERAL.—In the case of a per-
4 sonal service corporation (as defined in section
5 448(d)(2)), the amount of the tax imposed by
6 subsection (a) shall be 25 percent of taxable in-
7 come.

8 “(B) REFERENCES TO CORPORATE
9 RATE.—Any reference to the rate imposed
10 under this section or to the highest rate in ef-
11 fect under this section (or any similar ref-
12 erence) shall be determined without regard to
13 the rate imposed with respect to personal serv-
14 ice corporations (as so defined).”.

15 (b) CONFORMING AMENDMENTS.—

16 (1)(A) Part I of subchapter P of chapter 1 is
17 amended by striking section 1201 (and by striking
18 the item relating to such section in the table of sec-
19 tions for such part).

20 (B) Section 12 is amended by striking para-
21 graph (4).

22 (C) Section 527(b) is amended—

23 (i) by striking paragraph (2), and

24 (ii) by striking all that precedes “is hereby
25 imposed” and inserting:

1 “(b) TAX IMPOSED.—A tax”.

2 (D) Section 594(a) is amended by striking
3 “taxes imposed by section 11 or 1201(a)” and in-
4 serting “tax imposed by section 11”.

5 (E) Section 691(c)(4) is amended by striking
6 “1201,”.

7 (F) Section 801(a) is amended—

8 (i) by striking paragraph (2), and

9 (ii) by striking all that precedes “is hereby
10 imposed” and inserting:

11 “(a) TAX IMPOSED.—A tax”.

12 (G) Section 831(e) is amended by striking para-
13 graph (1) and by redesignating paragraphs (2) and
14 (3) as paragraphs (1) and (2), respectively.

15 (H) Sections 832(c)(5) and 834(b)(1)(D) are
16 each amended by striking “sec. 1201 and fol-
17 lowing,”.

18 (I) Section 852(b)(3)(A) is amended by striking
19 “section 1201(a)” and inserting “section 11(b)(1)”.

20 (J) Section 857(b)(3) is amended—

21 (i) by striking subparagraph (A) and re-
22 designating subparagraphs (B) through (F) as
23 subparagraphs (A) through (E), respectively,

24 (ii) in subparagraph (C), as so redesign-
25 nated—

1 (I) by striking “subparagraph (A)(ii)”
2 in clause (i) thereof and inserting “para-
3 graph (1)”,

4 (II) by striking “the tax imposed by
5 subparagraph (A)(ii)” in clauses (ii) and
6 (iv) thereof and inserting “the tax imposed
7 by paragraph (1) on undistributed capital
8 gain”,

9 (iii) in subparagraph (E), as so redesign-
10 nated, by striking “subparagraph (B) or (D)”
11 and inserting “subparagraph (A) or (C)”, and

12 (iv) by adding at the end the following new
13 subparagraph:

14 “(F) UNDISTRIBUTED CAPITAL GAIN.—
15 For purposes of this paragraph, the term ‘un-
16 distributed capital gain’ means the excess of the
17 net capital gain over the deduction for divi-
18 dends paid (as defined in section 561) deter-
19 mined with reference to capital gain dividends
20 only.”.

21 (K) Section 882(a)(1) is amended by striking “,
22 or 1201(a)”.

23 (L) Section 1374(b) is amended by striking
24 paragraph (4).

1 (M) Section 1381(b) is amended by striking
2 “taxes imposed by section 11 or 1201” and inserting
3 “tax imposed by section 11”.

4 (N) Section 6655(g)(1)(A)(i) is amended by
5 striking “or 1201(a),”.

6 (O) Section 7518(g)(6)(A) is amended by strik-
7 ing “or 1201(a)”.

8 (2) Section 1445(e)(1) is amended by striking
9 “35 percent (or, to the extent provided in regula-
10 tions, 20 percent)” and inserting “20 percent”.

11 (3) Section 1445(e)(2) is amended by striking
12 “35 percent” and inserting “20 percent”.

13 (4) Section 1445(e)(6) is amended by striking
14 “35 percent (or, to the extent provided in regula-
15 tions, 20 percent)” and inserting “20 percent”.

16 (5)(A) Part I of subchapter B of chapter 5 is
17 amended by striking section 1551 (and by striking
18 the item relating to such section in the table of sec-
19 tions for such part).

20 (B) Section 12 is amended by striking para-
21 graph (6).

22 (C) Section 535(c)(5) is amended to read as
23 follows:

24 “(5) CROSS REFERENCE.—For limitation on
25 credit provided in paragraph (2) or (3) in the case

1 of certain controlled corporations, see section
2 1561.”.

3 (6)(A) Section 1561, as amended by the pre-
4 ceding provisions of this Act, is amended to read as
5 follows:

6 **“SEC. 1561. LIMITATION ON ACCUMULATED EARNINGS**
7 **CREDIT IN THE CASE OF CERTAIN CON-**
8 **TROLLED CORPORATIONS.**

9 “(a) IN GENERAL.—The component members of a
10 controlled group of corporations on a December 31 shall,
11 for their taxable years which include such December 31,
12 be limited for purposes of this subtitle to one \$250,000
13 (\$150,000 if any component member is a corporation de-
14 scribed in section 535(c)(2)(B)) amount for purposes of
15 computing the accumulated earnings credit under section
16 535(c)(2) and (3). Such amount shall be divided equally
17 among the component members of such group on such De-
18 cember 31 unless the Secretary prescribes regulations per-
19 mitting an unequal allocation of such amount.

20 “(b) CERTAIN SHORT TAXABLE YEARS.—If a cor-
21 poration has a short taxable year which does not include
22 a December 31 and is a component member of a controlled
23 group of corporations with respect to such taxable year,
24 then for purposes of this subtitle, the amount to be used
25 in computing the accumulated earnings credit under sec-

1 tion 535(c)(2) and (3) of such corporation for such taxable
2 year shall be the amount specified in subsection (a) with
3 respect to such group, divided by the number of corpora-
4 tions which are component members of such group on the
5 last day of such taxable year. For purposes of the pre-
6 ceding sentence, section 1563(b) shall be applied as if such
7 last day were substituted for December 31.”.

8 (B) The table of sections for part II of sub-
9 chapter B of chapter 5 is amended by striking the
10 item relating to section 1561 and inserting the fol-
11 lowing new item:

“Sec. 1561. Limitation on accumulated earnings credit in the case of certain
controlled corporations.”.

12 (7) Section 7518(g)(6)(A) is amended—

13 (A) by striking “With respect to the por-
14 tion” and inserting “In the case of a taxpayer
15 other than a corporation, with respect to the
16 portion”, and

17 (B) by striking “(34 percent in the case of
18 a corporation)”.

19 (c) EFFECTIVE DATE.—

20 (1) IN GENERAL.—Except as otherwise pro-
21 vided in this subsection, the amendments made by
22 this section shall apply to taxable years beginning
23 after December 31, 2017.

1 (2) CERTAIN CONFORMING AMENDMENTS.—The
2 amendments made by paragraphs (2), (3), and (4)
3 of subsection (b) shall apply to distributions after
4 December 31, 2017.

5 (d) NORMALIZATION REQUIREMENTS.—

6 (1) IN GENERAL.—A normalization method of
7 accounting shall not be treated as being used with
8 respect to any public utility property for purposes of
9 section 167 or 168 of the Internal Revenue Code of
10 1986 if the taxpayer, in computing its cost of service
11 for ratemaking purposes and reflecting operating re-
12 sults in its regulated books of account, reduces the
13 excess tax reserve more rapidly or to a greater ex-
14 tent than such reserve would be reduced under the
15 average rate assumption method.

16 (2) ALTERNATIVE METHOD FOR CERTAIN TAX-
17 PAYERS.—If, as of the first day of the taxable year
18 that includes the date of enactment of this Act—

19 (A) the taxpayer was required by a regu-
20 latory agency to compute depreciation for public
21 utility property on the basis of an average life
22 or composite rate method, and

23 (B) the taxpayer's books and underlying
24 records did not contain the vintage account

1 data necessary to apply the average rate as-
2 sumption method,
3 the taxpayer will be treated as using a normalization
4 method of accounting if, with respect to such juris-
5 diction, the taxpayer uses the alternative method for
6 public utility property that is subject to the regu-
7 latory authority of that jurisdiction.

8 (3) DEFINITIONS.—For purposes of this sub-
9 section—

10 (A) EXCESS TAX RESERVE.—The term
11 “excess tax reserve” means the excess of—

12 (i) the reserve for deferred taxes (as
13 described in section 168(i)(9)(A)(ii) of the
14 Internal Revenue Code of 1986 as in effect
15 on the day before the date of the enact-
16 ment of this Act), over

17 (ii) the amount which would be the
18 balance in such reserve if the amount of
19 such reserve were determined by assuming
20 that the corporate rate reductions provided
21 in this Act were in effect for all prior peri-
22 ods.

23 (B) AVERAGE RATE ASSUMPTION METH-
24 OD.—The average rate assumption method is
25 the method under which the excess in the re-

1 serve for deferred taxes is reduced over the re-
2 remaining lives of the property as used in its reg-
3 ulated books of account which gave rise to the
4 reserve for deferred taxes. Under such method,
5 if timing differences for the property reverse,
6 the amount of the adjustment to the reserve for
7 the deferred taxes is calculated by multi-
8 plying—

9 (i) the ratio of the aggregate deferred
10 taxes for the property to the aggregate
11 timing differences for the property as of
12 the beginning of the period in question, by

13 (ii) the amount of the timing dif-
14 ferences which reverse during such period.

15 (C) ALTERNATIVE METHOD.—The “alter-
16 native method” is the method in which the tax-
17 payer—

18 (i) computes the excess tax reserve on
19 all public utility property included in the
20 plant account on the basis of the weighted
21 average life or composite rate used to com-
22 pute depreciation for regulatory purposes,
23 and

1 (ii) reduces the excess tax reserve rat-
2 ably over the remaining regulatory life of
3 the property.

4 (4) TAX INCREASED FOR NORMALIZATION VIO-
5 LATION.—If, for any taxable year ending after the
6 date of the enactment of this Act, the taxpayer does
7 not use a normalization method of accounting, the
8 taxpayer’s tax for the taxable year shall be increased
9 by the amount by which it reduces its excess tax re-
10 serve more rapidly than permitted under a normal-
11 ization method of accounting.

12 **Subtitle B—Cost Recovery**

13 **SEC. 3101. INCREASED EXPENSING.**

14 (a) 100 PERCENT EXPENSING.—Section
15 168(k)(1)(A) is amended by striking “50 percent” and in-
16 serting “100 percent”.

17 (b) EXTENSION THROUGH JANUARY 1, 2023.—Sec-
18 tion 168(k)(2) is amended—

19 (1) in subparagraph (A)(iii), by striking “Janu-
20 ary 1, 2020” and inserting “January 1, 2023”,

21 (2) in subparagraph (B)(i)(II), by striking
22 “January 1, 2021” and inserting “January 1,
23 2024”,

1 (3) in subparagraph (B)(i)(III), by striking
2 “January 1, 2020” and inserting “January 1,
3 2023”,

4 (4) in subparagraph (B)(ii), by striking “Janu-
5 ary 1, 2020” in each place it appears and inserting
6 “January 1, 2023”, and

7 (5) in subparagraph (E)(i), by striking “Janu-
8 ary 1, 2020” and replacing it with “January 1,
9 2023”.

10 (c) APPLICATION TO USED PROPERTY.—

11 (1) IN GENERAL.—Section 168(k)(2)(A)(ii) is
12 amended to read as follows:

13 “(ii) the original use of which begins
14 with the taxpayer or the acquisition of
15 which by the taxpayer meets the require-
16 ments of clause (ii) of subparagraph (E),
17 and”.

18 (2) ACQUISITION REQUIREMENTS.—Section
19 168(k)(2)(E)(ii) is amended to read as follows:

20 “(ii) ACQUISITION REQUIREMENTS.—
21 An acquisition of property meets the re-
22 quirements of this clause if—

23 “(I) such property was not used
24 by the taxpayer at any time prior to
25 such acquisition, and

1 “(II) the acquisition of such
2 property meets the requirements of
3 paragraphs (2)(A), (2)(B), (2)(C),
4 and (3) of section 179(d).”,

5 (3) ANTI-ABUSE RULES.—Section 168(k)(2)(E)
6 is further amended by amending clause (iii)(I) to
7 read as follows:

8 “(I) property is used by a lessor
9 of such property and such use is the
10 lessor’s first use of such property.”.

11 (d) EXCEPTION FOR CERTAIN TRADES AND BUSI-
12 NESSES NOT SUBJECT TO LIMITATION ON INTEREST EX-
13 PENSE.—Section 168(k)(2), as amended by section 2001,
14 is amended by inserting after subparagraph (F) the fol-
15 lowing new subparagraph:

16 “(G) EXCEPTION FOR CERTAIN PROPERTY
17 OF REAL PROPERTY BUSINESSES AND REGU-
18 LATED UTILITIES.—The term ‘qualified prop-
19 erty’ shall not include any property used in a
20 trade or business described in subparagraph
21 (B) or (C) of section 163(j)(7).”.

22 (e) COORDINATION WITH SECTION 280F.—Section
23 168(k)(2)(F) is amended—

24 (1) by striking “\$8,000” in clauses (i) and (iii)
25 and inserting “\$16,000”, and

1 (2) in clause (iii)—

2 (A) by striking “placed in service by the
3 taxpayer after December 31, 2017” and insert-
4 ing “acquired by the taxpayer before September
5 28, 2017, and placed in service by the taxpayer
6 after September 27, 2017”, and

7 (B) by redesignating subclauses (I) and
8 (II) as subclauses (II) and (III) respectively,
9 and inserting before clause (II), as so redesign-
10 ated, the following new subclause:

11 “(I) in the case of a passenger
12 automobile placed in service before
13 January 1, 2018, ‘\$8,000’,”.

14 (f) CONFORMING AMENDMENTS.—

15 (1) Section (k)(2)(B)(i)(III), as amended, is
16 amended by inserting “binding” before “contract”.

17 (2) Section 168(k)(5) is amended by—

18 (A) by striking “January 1, 2020” in sub-
19 paragraph (A) and inserting “January 1,
20 2023”,

21 (B) by striking “50 percent” in subpara-
22 graph (A)(i) and inserting “100 percent”, and

23 (C) by striking subparagraph (F).

24 (3) Section 168(k)(6) is amended to read as fol-
25 lows:

1 “(6) PHASE DOWN.—In the case of qualified
2 property acquired by the taxpayer before September
3 28, 2017, and placed in service by the taxpayer after
4 September 27, 2017, paragraph (1)(A) shall be ap-
5 plied by substituting for ‘100 percent’—

6 “(A) ‘50 percent’ in the case of—

7 “(i) property placed in service before
8 January 1, 2018, and

9 “(ii) property described in subpara-
10 graph (B) or (C) of paragraph (2) which
11 is placed in service in 2018,

12 “(B) ‘40 percent’ in the case of—

13 “(i) property placed in service in 2018
14 (other than property described in subpara-
15 graph (B) or (C) of paragraph (2)), and

16 “(ii) property described in subpara-
17 graph (B) or (C) of paragraph (2) which
18 is placed in service in 2019, and

19 “(C) ‘30 percent’ in the case of—

20 “(i) property placed in service in 2019
21 (other than property described in subpara-
22 graph (B) or (C) of paragraph (2)), and

23 “(ii) property described in subpara-
24 graph (B) or (C) of paragraph (2) which
25 is placed in service in 2020.”.

1 (4) The heading of section 168(k) is amended
2 by striking “SPECIAL ALLOWANCE FOR CERTAIN
3 PROPERTY ACQUIRED AFTER DECEMBER 31, 2007,
4 AND BEFORE JANUARY 1, 2020” and inserting
5 “FULL EXPENSING OF CERTAIN PROPERTY”.

6 (5) Section 460(c)(6)(B)(ii) is amended by
7 striking “January 1, 2020 (January 1, 2021 in the
8 case of property described in section 168(k)(2)(B))”
9 and inserting “January 1, 2023 (January 1, 2024 in
10 the case of property described in section
11 168(k)(2)(B))”.

12 (g) EFFECTIVE DATE.—

13 (1) IN GENERAL.—Except as provided by para-
14 graph (2), the amendments made by this section
15 shall apply to property which—

16 (A) is acquired after September 27, 2017,

17 and

18 (B) is placed in service after such date.

19 For purposes of the preceding sentence, property
20 shall not be treated as acquired after the date on
21 which a written binding contract is entered into for
22 such acquisition.

23 (2) SPECIFIED PLANTS.—The amendments
24 made by subsection (f)(2) shall apply to specified
25 plants planted or grafted after September 27, 2017.

1 (3) TRANSITION RULE.—In the case of any tax-
2 payer’s first taxable year ending after September 27,
3 2017, the taxpayer may elect (at such time and in
4 such form and manner as the Secretary of the
5 Treasury, or his designee, may provide) to apply sec-
6 tion 168 of the Internal Revenue Code of 1986 with-
7 out regard to the amendments made by this section.

8 (4) LIMITATION ON NET OPERATING LOSS
9 CARRYBACKS ATTRIBUTABLE TO FULL EXPENS-
10 ING.—In the case of any taxable year which includes
11 any portion of the period beginning on September
12 28, 2017, and ending on December 31, 2017, the
13 amount of any net operating loss for such taxable
14 year which may be treated as a net operating loss
15 carryback (including any such carryback attributable
16 to any specified liability loss under section
17 172(b)(1)(C), any corporate equity reduction inter-
18 est loss under section 172(b)(1)(D), any eligible loss
19 under section 172(b)(1)(E), and any farming loss
20 under section 172(b)(1)(F)) shall be determined
21 without regard to the amendments made by this sec-
22 tion. For purposes of this paragraph, terms which
23 are used in section 172 of the Internal Revenue
24 Code of 1986 (determined without regard to the

1 amendments made by section 3302) shall have the
2 same meaning as when used in such section.

3 **Subtitle C—Small Business** 4 **Reforms**

5 **SEC. 3201. EXPANSION OF SECTION 179 EXPENSING.**

6 (a) INCREASED DOLLAR LIMITATIONS.—

7 (1) IN GENERAL.—Section 179(b) is amend-
8 ed—

9 (A) by inserting “(\$5,000,000, in the case
10 of taxable years beginning before January 1,
11 2023)” after “\$500,000” in paragraph (1), and

12 (B) by inserting “(\$20,000,000, in the
13 case of taxable years beginning before January
14 1, 2023)” after “\$2,000,000” in paragraph (2).

15 (2) INFLATION ADJUSTMENT.—Section
16 179(b)(6) is amended to read as follows:

17 “(6) INFLATION ADJUSTMENT.—

18 “(A) IN GENERAL.—In the case of a tax-
19 able year beginning after 2015 (2018 in the
20 case of the \$5,000,000 and \$20,000,000
21 amounts in subsection (b)), each dollar amount
22 in subsection (b) shall be increased by an
23 amount equal to such dollar amount multiplied
24 by—

1 “(i) in the case of the \$500,000 and
2 \$2,000,000 amounts in subsection (b), the
3 cost-of-living adjustment determined under
4 section 1(c)(2) for the calendar year in
5 which the taxable year begins, determined
6 by substituting ‘calendar year 2014’ for
7 ‘calendar year 2016’ in subparagraph
8 (A)(ii) thereof, and

9 “(ii) in the case of the \$5,000,000
10 and \$20,000,000 amounts in subsection
11 (b), the cost-of-living adjustment deter-
12 mined under section 1(c)(2) for the cal-
13 endar year in which the taxable year be-
14 gins, determined by substituting ‘calendar
15 year 2017’ for ‘calendar year 2016’ in sub-
16 paragraph (A)(ii) thereof.

17 “(B) ROUNDING.—The amount of any in-
18 crease under subparagraph (A) shall be round-
19 ed to the nearest multiple of \$10,000
20 (\$100,000 in the case of the \$5,000,000 and
21 \$20,000,000 amounts in subsection (b)).”.

22 (b) APPLICATION TO QUALIFIED ENERGY EFFICIENT
23 HEATING AND AIR-CONDITIONING PROPERTY.—

24 (1) IN GENERAL.—Section 179(f)(2) is amend-
25 ed by striking “and” at the end of subparagraph

1 (B), by striking the period at the end of subpara-
2 graph (C) and inserting “, and”, and by adding at
3 the end the following new subparagraph:

4 “(D) qualified energy efficient heating and
5 air-conditioning property.”.

6 (2) QUALIFIED ENERGY EFFICIENT HEATING
7 AND AIR-CONDITIONING PROPERTY.—Section 179(f)
8 is amended by adding at the end the following new
9 paragraph:

10 “(3) QUALIFIED ENERGY EFFICIENT HEATING
11 AND AIR-CONDITIONING PROPERTY.—For purposes
12 of this subsection—

13 “(A) IN GENERAL.—The term ‘qualified
14 energy efficient heating and air-conditioning
15 property’ means any section 1250 property—

16 “(i) with respect to which depreciation
17 (or amortization in lieu of depreciation) is
18 allowable,

19 “(ii) which is installed as part of a
20 building’s heating, cooling, ventilation, or
21 hot water system, and

22 “(iii) which is within the scope of
23 Standard 90.1–2007 or any successor
24 standard.

1 “(B) STANDARD 90.1–2007.—The term
2 ‘Standard 90.1–2007’ means Standard 90.1–
3 2007 of the American Society of Heating, Re-
4 frigerating and Air-Conditioning Engineers and
5 the Illuminating Engineering Society of North
6 America (as in effect on the day before the date
7 of the adoption of Standard 90.1–2010 of such
8 Societies).”.

9 (c) EFFECTIVE DATE.—

10 (1) INCREASED DOLLAR LIMITATIONS.—The
11 amendments made by subsection (a) shall apply to
12 taxable years beginning after December 31, 2017.

13 (2) APPLICATION TO QUALIFIED ENERGY EFFI-
14 CIENT HEATING AND AIR-CONDITIONING PROP-
15 ERTY.—The amendments made by subsection (b)
16 shall apply to property acquired and placed in serv-
17 ice after November 2, 2017. For purposes of the
18 preceding sentence, property shall not be treated as
19 acquired after the date on which a written binding
20 contract is entered into for such acquisition.

21 **SEC. 3202. SMALL BUSINESS ACCOUNTING METHOD RE-**
22 **FORM AND SIMPLIFICATION.**

23 (a) MODIFICATION OF LIMITATION ON CASH METH-
24 OD OF ACCOUNTING.—

1 (1) INCREASED LIMITATION.—So much of sec-
2 tion 448(c) as precedes paragraph (2) is amended to
3 read as follows:

4 “(c) GROSS RECEIPTS TEST.—For purposes of this
5 section—

6 “(1) IN GENERAL.—A corporation or partner-
7 ship meets the gross receipts test of this subsection
8 for any taxable year if the average annual gross re-
9 ceipts of such entity for the 3-taxable-year period
10 ending with the taxable year which precedes such
11 taxable year does not exceed \$25,000,000.”.

12 (2) APPLICATION OF EXCEPTION ON ANNUAL
13 BASIS.—Section 448(b)(3) is amended to read as fol-
14 lows:

15 “(3) ENTITIES WHICH MEET GROSS RECEIPTS
16 TEST.—Paragraphs (1) and (2) of subsection (a)
17 shall not apply to any corporation or partnership for
18 any taxable year if such entity (or any predecessor)
19 meets the gross receipts test of subsection (c) for
20 such taxable year.”.

21 (3) INFLATION ADJUSTMENT.—Section 448(c)
22 is amended by adding at the end the following new
23 paragraph:

24 “(4) ADJUSTMENT FOR INFLATION.—In the
25 case of any taxable year beginning after December

1 31, 2018, the dollar amount in paragraph (1) shall
2 be increased by an amount equal to—

3 “(A) such dollar amount, multiplied by

4 “(B) the cost-of-living adjustment deter-
5 mined under section 1(c)(2) for the calendar
6 year in which the taxable year begins, by sub-
7 stituting ‘calendar year 2017’ for ‘calendar year
8 2016’ in subparagraph (A)(ii) thereof.

9 If any amount as increased under the preceding sen-
10 tence is not a multiple of \$1,000,000, such amount
11 shall be rounded to the nearest multiple of
12 \$1,000,000.”.

13 (4) COORDINATION WITH SECTION 481.—Sec-
14 tion 448(d)(7) is amended to read as follows:

15 “(7) COORDINATION WITH SECTION 481.—Any
16 change in method of accounting made pursuant to
17 this section shall be treated for purposes of section
18 481 as initiated by the taxpayer and made with the
19 consent of the Secretary.”.

20 (5) APPLICATION OF EXCEPTION TO CORPORA-
21 TIONS ENGAGED IN FARMING.—

22 (A) IN GENERAL.—Section 447(c) is
23 amended—

1 (i) by inserting “for any taxable year”
2 after “not being a corporation” in the mat-
3 ter preceding paragraph (1), and

4 (ii) by amending paragraph (2) to
5 read as follows:

6 “(2) a corporation which meets the gross re-
7 ceipts test of section 448(c) for such taxable year.”.

8 (B) COORDINATION WITH SECTION 481.—
9 Section 447(f) is amended to read as follows:

10 “(f) COORDINATION WITH SECTION 481.—Any
11 change in method of accounting made pursuant to this
12 section shall be treated for purposes of section 481 as ini-
13 tiated by the taxpayer and made with the consent of the
14 Secretary.”.

15 (C) CONFORMING AMENDMENTS.—Section
16 447 is amended—

17 (i) by striking subsections (d), (e),
18 (h), and (i), and

19 (ii) by redesignating subsections (f)
20 and (g) (as amended by subparagraph (B))
21 as subsections (d) and (e), respectively.

22 (b) EXEMPTION FROM UNICAP REQUIREMENTS.—

23 (1) IN GENERAL.—Section 263A is amended by
24 redesignating subsection (i) as subsection (j) and by

1 inserting after subsection (h) the following new sub-
2 section:

3 “(i) EXEMPTION FOR CERTAIN SMALL BUSI-
4 NESSES.—

5 “(1) IN GENERAL.—In the case of any taxpayer
6 (other than a tax shelter prohibited from using the
7 cash receipts and disbursements method of account-
8 ing under section 448(a)(3)) which meets the gross
9 receipts test of section 448(c) for any taxable year,
10 this section shall not apply with respect to such tax-
11 payer for such taxable year.

12 “(2) APPLICATION OF GROSS RECEIPTS TEST
13 TO INDIVIDUALS, ETC.—In the case of any taxpayer
14 which is not a corporation or a partnership, the
15 gross receipts test of section 448(c) shall be applied
16 in the same manner as if each trade or business of
17 such taxpayer were a corporation or partnership.

18 “(3) COORDINATION WITH SECTION 481.—Any
19 change in method of accounting made pursuant to
20 this subsection shall be treated for purposes of sec-
21 tion 481 as initiated by the taxpayer and made with
22 the consent of the Secretary.”.

23 (2) CONFORMING AMENDMENT.—Section
24 263A(b)(2) is amended to read as follows:

1 “(2) PROPERTY ACQUIRED FOR RESALE.—Real
2 or personal property described in section 1221(a)(1)
3 which is acquired by the taxpayer for resale.”.

4 (c) EXEMPTION FROM INVENTORIES.—Section 471
5 is amended by redesignating subsection (c) as subsection
6 (d) and by inserting after subsection (b) the following new
7 subsection:

8 “(c) EXEMPTION FOR CERTAIN SMALL BUSI-
9 NESSES.—

10 “(1) IN GENERAL.—In the case of any taxpayer
11 (other than a tax shelter prohibited from using the
12 cash receipts and disbursements method of account-
13 ing under section 448(a)(3)) which meets the gross
14 receipts test of section 448(c) for any taxable year—

15 “(A) subsection (a) shall not apply with re-
16 spect to such taxpayer for such taxable year,
17 and

18 “(B) the taxpayer’s method of accounting
19 for inventory for such taxable year shall not be
20 treated as failing to clearly reflect income if
21 such method either—

22 “(i) treats inventory as non-incident-
23 materials and supplies, or

24 “(ii) conforms to such taxpayer’s
25 method of accounting reflected in an appli-

1 cable financial statement of the taxpayer
2 with respect to such taxable year or, if the
3 taxpayer does not have any applicable fi-
4 nancial statement with respect to such tax-
5 able year, the books and records of the
6 taxpayer prepared in accordance with the
7 taxpayer's accounting procedures.

8 “(2) APPLICABLE FINANCIAL STATEMENT.—

9 For purposes of this subsection, the term ‘applicable
10 financial statement’ means—

11 “(A) a financial statement which is cer-
12 tified as being prepared in accordance with gen-
13 erally accepted accounting principles and which
14 is—

15 “(i) a 10-K (or successor form), or
16 annual statement to shareholders, required
17 to be filed by the taxpayer with the United
18 States Securities and Exchange Commis-
19 sion,

20 “(ii) an audited financial statement of
21 the taxpayer which is used for—

22 “(I) credit purposes,

23 “(II) reporting to shareholders,
24 partners, or other proprietors, or to
25 beneficiaries, or

1 “(III) any other substantial
2 nontax purpose,

3 but only if there is no statement of the
4 taxpayer described in clause (i), or

5 “(iii) filed by the taxpayer with any
6 other Federal or State agency for nontax
7 purposes, but only if there is no statement
8 of the taxpayer described in clause (i) or
9 (ii), or

10 “(B) a financial statement of the taxpayer
11 which—

12 “(i) is used for a purpose described in
13 subclause (I), (II), or (III) of subpara-
14 graph (A)(ii), or

15 “(ii) filed by the taxpayer with any
16 regulatory or governmental body (whether
17 domestic or foreign) specified by the Sec-
18 retary,

19 but only if there is no statement of the taxpayer
20 described in subparagraph (A).

21 “(3) APPLICATION OF GROSS RECEIPTS TEST
22 TO INDIVIDUALS, ETC.—In the case of any taxpayer
23 which is not a corporation or a partnership, the
24 gross receipts test of section 448(c) shall be applied

1 in the same manner as if each trade or business of
2 such taxpayer were a corporation or partnership.

3 “(4) COORDINATION WITH SECTION 481.—Any
4 change in method of accounting made pursuant to
5 this subsection shall be treated for purposes of sec-
6 tion 481 as initiated by the taxpayer and made with
7 the consent of the Secretary.”.

8 (d) EXEMPTION FROM PERCENTAGE COMPLETION
9 FOR LONG-TERM CONTRACTS.—

10 (1) IN GENERAL.—Section 460(e)(1)(B) is
11 amended—

12 (A) by inserting “(other than a tax shelter
13 prohibited from using the cash receipts and dis-
14 bursements method of accounting under section
15 448(a)(3))” after “taxpayer” in the matter pre-
16 ceding clause (i), and

17 (B) by amending clause (ii) to read as fol-
18 lows:

19 “(ii) who meets the gross receipts test
20 of section 448(e) for the taxable year in
21 which such contract is entered into.”.

22 (2) CONFORMING AMENDMENTS.—Section
23 460(e) is amended by striking paragraphs (2) and
24 (3), by redesignating paragraphs (4), (5), and (6) as
25 paragraphs (3), (4), and (5), respectively, and by in-

1 serting after paragraph (1) the following new para-
2 graph:

3 “(2) RULES RELATED TO GROSS RECEIPTS
4 TEST.—

5 “(A) APPLICATION OF GROSS RECEIPTS
6 TEST TO INDIVIDUALS, ETC.—For purposes of
7 paragraph (1)(B)(ii), in the case of any tax-
8 payer which is not a corporation or a partner-
9 ship, the gross receipts test of section 448(c)
10 shall be applied in the same manner as if each
11 trade or business of such taxpayer were a cor-
12 poration or partnership.

13 “(B) COORDINATION WITH SECTION 481.—
14 Any change in method of accounting made pur-
15 suant to paragraph (1)(B)(ii) shall be treated
16 as initiated by the taxpayer and made with the
17 consent of the Secretary. Such change shall be
18 effected on a cut-off basis for all similarly clas-
19 sified contracts entered into on or after the
20 year of change.”.

21 (e) EFFECTIVE DATE.—

22 (1) IN GENERAL.—Except as otherwise pro-
23 vided in this subsection, the amendments made by
24 this section shall apply to taxable years beginning
25 after December 31, 2017.

1 (2) PRESERVATION OF SUSPENSE ACCOUNT
2 RULES WITH RESPECT TO ANY EXISTING SUSPENSE
3 ACCOUNTS.—So much of the amendments made by
4 subsection (a)(5)(C) as relate to section 447(i) of
5 the Internal Revenue Code of 1986 shall not apply
6 with respect to any suspense account established
7 under such section before the date of the enactment
8 of this Act.

9 (3) EXEMPTION FROM PERCENTAGE COMPLE-
10 TION FOR LONG-TERM CONTRACTS.—The amend-
11 ments made by subsection (d) shall apply to con-
12 tracts entered into after December 31, 2017, in tax-
13 able years ending after such date.

14 **SEC. 3203. SMALL BUSINESS EXCEPTION FROM LIMITATION**
15 **ON DEDUCTION OF BUSINESS INTEREST.**

16 (a) IN GENERAL.—Section 163(j)(2), as amended by
17 section 3301, is amended to read as follows:

18 “(2) EXEMPTION FOR CERTAIN SMALL BUSI-
19 NESSES.—In the case of any taxpayer (other than a
20 tax shelter prohibited from using the cash receipts
21 and disbursements method of accounting under sec-
22 tion 448(a)(3)) which meets the gross receipts test
23 of section 448(c) for any taxable year, paragraph (1)
24 shall not apply to such taxpayer for such taxable
25 year. In the case of any taxpayer which is not a cor-

1 poration or a partnership, the gross receipts test of
2 section 448(c) shall be applied in the same manner
3 as if such taxpayer were a corporation or partner-
4 ship.”.

5 (b) EFFECTIVE DATE.—The amendment made by
6 this section shall apply to taxable years beginning after
7 December 31, 2017.

8 **Subtitle D—Reform of Business-**
9 **related Exclusions, Deductions, etc.**

10 **SEC. 3301. INTEREST.**

11 (a) IN GENERAL.—Section 163(j) is amended to read
12 as follows:

13 “(j) LIMITATION ON BUSINESS INTEREST.—

14 “(1) IN GENERAL.—In the case of any taxpayer
15 for any taxable year, the amount allowed as a deduc-
16 tion under this chapter for business interest shall
17 not exceed the sum of—

18 “(A) the business interest income of such
19 taxpayer for such taxable year, plus

20 “(B) 30 percent of the adjusted taxable in-
21 come of such taxpayer for such taxable year.

22 The amount determined under subparagraph (B)
23 (after any increases in such amount under para-
24 graph (3)(A)(iii)) shall not be less than zero.

1 “(2) EXEMPTION FOR CERTAIN SMALL BUSI-
2 NESSES.—For exemption for certain small busi-
3 nesses, see the amendment made by section 3204 of
4 the Tax Cuts and Jobs Act.

5 “(3) APPLICATION TO PARTNERSHIPS, ETC.—

6 “(A) IN GENERAL.—In the case of any
7 partnership—

8 “(i) this subsection shall be applied at
9 the partnership level and any deduction for
10 business interest shall be taken into ac-
11 count in determining the non-separately
12 stated taxable income or loss of the part-
13 nership,

14 “(ii) the adjusted taxable income of
15 each partner of such partnership shall be
16 determined without regard to such part-
17 ner’s distributive share of the non-sepa-
18 rately stated taxable income or loss of such
19 partnership, and

20 “(iii) the amount determined under
21 paragraph (1)(B) with respect to each
22 partner of such partnership shall be in-
23 creased by such partner’s distributive
24 share of such partnership’s excess amount.

1 “(B) EXCESS AMOUNT.—The term ‘excess
2 amount’ means, with respect to any partner-
3 ship, the excess (if any) of—

4 “(i) 30 percent of the adjusted taxable
5 income of the partnership, over

6 “(ii) the amount (if any) by which the
7 business interest of the partnership ex-
8 ceeds the business interest income of the
9 partnership.

10 “(C) APPLICATION TO S CORPORATIONS.—
11 Rules similar to the rules of subparagraphs (A)
12 and (B) shall apply with respect to any S cor-
13 poration and its shareholders.

14 “(4) BUSINESS INTEREST.—For purposes of
15 this subsection, the term ‘business interest’ means
16 any interest paid or accrued on indebtedness prop-
17 erly allocable to a trade or business. Such term shall
18 not include investment interest (within the meaning
19 of subsection (d)).

20 “(5) BUSINESS INTEREST INCOME.—For pur-
21 poses of this subsection, the term ‘business interest
22 income’ means the amount of interest includible in
23 the gross income of the taxpayer for the taxable year
24 which is properly allocable to a trade or business.

1 Such term shall not include investment income
2 (within the meaning of subsection (d)).

3 “(6) ADJUSTED TAXABLE INCOME.—For pur-
4 poses of this subsection, the term ‘adjusted taxable
5 income’ means the taxable income of the taxpayer—

6 “(A) computed without regard to—

7 “(i) any item of income, gain, deduc-
8 tion, or loss which is not properly allocable
9 to a trade or business,

10 “(ii) any business interest or business
11 interest income,

12 “(iii) the amount of any net operating
13 loss deduction under section 172, and

14 “(iv) any deduction allowable for de-
15 preciation, amortization, or depletion, and

16 “(B) computed with such other adjust-
17 ments as the Secretary may provide.

18 “(7) TRADE OR BUSINESS.—For purposes of
19 this subsection, the term ‘trade or business’ shall not
20 include—

21 “(A) the trade or business of performing
22 services as an employee,

23 “(B) a real property trade or business (as
24 such term is defined in section 469(c)(7)(C)),

25 or

1 “(C) the trade or business of the fur-
2 nishing or sale of—

3 “(i) electrical energy, water, or sewage
4 disposal services,

5 “(ii) gas or steam through a local dis-
6 tribution system, or

7 “(iii) transportation of gas or steam
8 by pipeline, or

9 if the rates for such furnishing or sale, as the
10 case may be, have been established or approved
11 by a State or political subdivision thereof, by
12 any agency or instrumentality of the United
13 States, or by a public service or public utility
14 commission or other similar body of any State
15 or political subdivision thereof.

16 “(8) CARRYFORWARD OF DISALLOWED INTER-
17 EST.—For carryforward of interest disallowed under
18 paragraph (1), see subsection (o).”.

19 (b) CARRYFORWARD OF DISALLOWED BUSINESS IN-
20 TEREST.—Section 163, after amendment by section
21 4302(a) and before amendment by section 4302(b), is
22 amended by inserting after subsection (n) the following
23 new subsection:

24 “(o) CARRYFORWARD OF DISALLOWED BUSINESS IN-
25 TEREST.—The amount of any business interest not al-

1 lowed as a deduction for any taxable year by reason of
2 subsection (j) shall be treated as business interest paid
3 or accrued in the succeeding taxable year. Business inter-
4 est paid or accrued in any taxable year (determined with-
5 out regard to the preceding sentence) shall not be carried
6 past the 5th taxable year following such taxable year, de-
7 termined by treating business interest as allowed as a de-
8 duction on a first-in, first-out basis.”.

9 (c) TREATMENT OF CARRYFORWARD OF DIS-
10 ALLOWED BUSINESS INTEREST IN CERTAIN CORPORATE
11 ACQUISITIONS.—

12 (1) IN GENERAL.—Section 381(c) is amended
13 by inserting after paragraph (19) the following new
14 paragraph:

15 “(20) CARRYFORWARD OF DISALLOWED INTER-
16 EST.—The carryover of disallowed interest described
17 in section 163(o) to taxable years ending after the
18 date of distribution or transfer.”.

19 (2) APPLICATION OF LIMITATION.—Section
20 382(d) is amended by adding at the end the fol-
21 lowing new paragraph:

22 “(3) APPLICATION TO CARRYFORWARD OF DIS-
23 ALLOWED INTEREST.—The term ‘pre-change loss’
24 shall include any carryover of disallowed interest de-

1 scribed in section 163(o) under rules similar to the
2 rules of paragraph (1).”.

3 (3) CONFORMING AMENDMENT.—Section
4 382(k)(1) is amended by inserting after the first
5 sentence the following: “Such term shall include any
6 corporation entitled to use a carryforward of dis-
7 allowed interest described in section 381(c)(20).”

8 (d) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to taxable years beginning after
10 December 31, 2017.

11 **SEC. 3302. MODIFICATION OF NET OPERATING LOSS DE-**
12 **DUCTION.**

13 (a) INDEFINITE CARRYFORWARD OF NET OPER-
14 ATING LOSSES.—Section 172(b)(1)(A)(ii) is amended by
15 striking “to each of the 20 taxable years” and inserting
16 “to each taxable year”.

17 (b) REPEAL OF NET OPERATING LOSS CARRYBACKS
18 OTHER THAN 1-YEAR CARRYBACK OF ELIGIBLE DIS-
19 ASTER LOSSES.—

20 (1) IN GENERAL.—Section 172(b)(1)(A)(i) is
21 amended to read as follows:

22 “(i) in the case of any portion of a net
23 operating loss for the taxable year which is
24 an eligible disaster loss with respect to the
25 taxpayer, shall be a net operating loss

1 carryback to the taxable year preceding the
2 taxable year of such loss, and”.

3 (2) CONFORMING AMENDMENTS.—

4 (A) Section 172(b)(1) is amended by strik-
5 ing subparagraphs (B) through (F) and insert-
6 ing the following:

7 “(B) ELIGIBLE DISASTER LOSS.—

8 “(i) IN GENERAL.—For purposes of
9 subparagraph (A)(i), the term ‘eligible dis-
10 aster loss’ means—

11 “(I) in the case of a taxpayer
12 which is a small business, net oper-
13 ating losses attributable to federally
14 declared disasters (as defined by sec-
15 tion 165(i)(5)), and

16 “(II) in the case of a taxpayer
17 engaged in the trade or business of
18 farming, net operating losses attrib-
19 utable to such federally declared dis-
20 asters.

21 “(ii) SMALL BUSINESS.—For purposes
22 of this subparagraph, the term ‘small busi-
23 ness’ means a corporation or partnership
24 which meets the gross receipts test of sec-
25 tion 448(c) (determined by substituting

1 ‘\$5,000,000’ for ‘\$25,000,000’ each place
2 it appears therein) for the taxable year in
3 which the loss arose (or, in the case of a
4 sole proprietorship, which would meet such
5 test if such proprietorship were a corpora-
6 tion).

7 “(iii) TRADE OR BUSINESS OF FARM-
8 ING.—For purposes of this subparagraph,
9 the trade or business of farming shall in-
10 clude the trade or business of—

11 “(I) operating a nursery or sod
12 farm, or

13 “(II) the raising or harvesting of
14 trees bearing fruit, nuts, or other
15 crops, or ornamental trees.

16 For purposes of subclause (II), an ever-
17 green tree which is more than 6 years old
18 at the time severed from the roots shall
19 not be treated as an ornamental tree.”.

20 (B) Section 172 is amended by striking
21 subsections (f), (g), and (h).

22 (c) LIMITATION OF NET OPERATING LOSS TO 90
23 PERCENT OF TAXABLE INCOME.—

24 (1) IN GENERAL.—Section 172(a) is amended
25 to read as follows:

1 “(a) DEDUCTION ALLOWED.—There shall be allowed
2 as a deduction for the taxable year an amount equal to
3 the lesser of—

4 “(1) the aggregate of the net operating loss
5 carryovers to such year, plus the net operating loss
6 carrybacks to such year, or

7 “(2) 90 percent of taxable income computed
8 without regard to the deduction allowable under this
9 section.

10 For purposes of this subtitle, the term ‘net operating loss
11 deduction’ means the deduction allowed by this sub-
12 section.”.

13 (2) COORDINATION OF LIMITATION WITH
14 CARRYBACKS AND CARRYOVERS.—Section 172(b)(2)
15 is amended by striking “shall be computed—” and
16 all that follows and inserting “shall—

17 “(A) be computed with the modifications
18 specified in subsection (d) other than para-
19 graphs (1), (4), and (5) thereof, and by deter-
20 mining the amount of the net operating loss de-
21 duction without regard to the net operating loss
22 for the loss year or for any taxable year there-
23 after,

24 “(B) not be considered to be less than
25 zero, and

1 “(C) not exceed the amount determined
2 under subsection (a)(2) for such prior taxable
3 year.”.

4 (3) CONFORMING AMENDMENT.—Section
5 172(d)(6) is amended by striking “and” at the end
6 of subparagraph (A), by striking the period at the
7 end of subparagraph (B) and inserting “; and”, and
8 by adding at the end the following new subpara-
9 graph:

10 “(C) subsection (a)(2) shall be applied by
11 substituting ‘real estate investment trust tax-
12 able income (as defined in section 857(b)(2) but
13 without regard to the deduction for dividends
14 paid (as defined in section 561))’ for ‘taxable
15 income’.”.

16 (d) ANNUAL INCREASE OF INDEFINITE CARRYOVER
17 AMOUNTS.—Section 172(b) is amended by redesignating
18 paragraph (3) as paragraph (4) and by inserting after
19 paragraph (2) the following new paragraph:

20 “(3) ANNUAL INCREASE OF INDEFINITE CARRY-
21 OVER AMOUNTS.—For purposes of paragraph (2)—

22 “(A) the amount of any indefinite net op-
23 erating loss which is carried to the next suc-
24 ceeding taxable year after the loss year (within

1 the meaning of paragraph (2)) shall be in-
2 creased by an amount equal to—

3 “(i) the amount of the loss which may
4 be so carried over to such succeeding tax-
5 able year (determined without regard to
6 this paragraph), multiplied by

7 “(ii) the sum of—

8 “(I) the annual Federal short-
9 term rate (determined under section
10 1274(d)) for the last month ending
11 before the beginning of such taxable
12 year, plus

13 “(II) 4 percentage points, and

14 “(B) the amount of any indefinite net op-
15 erating loss which is carried to any succeeding
16 taxable year (after such next succeeding taxable
17 year) shall be an amount equal to—

18 “(i) the excess of—

19 “(I) the amount of the loss car-
20 ried to the prior taxable year (after
21 any increase under this paragraph
22 with respect to such amount), over

23 “(II) the amount by which such
24 loss was reduced under paragraph (2)

1 by reason of the taxable income for
2 such prior taxable year, multiplied by
3 “(ii) a percentage equal to 100 per-
4 cent plus the percentage determined under
5 subparagraph (A)(ii) with respect to such
6 succeeding taxable year.

7 For purposes of the preceding sentence, the
8 term ‘indefinite net operating loss’ means any
9 net operating loss arising in a taxable year be-
10 ginning after December 31, 2017.”.

11 (e) EFFECTIVE DATE.—

12 (1) CARRYFORWARDS AND CARRYBACKS.—The
13 amendments made by subsections (a) and (b) shall
14 apply to net operating losses arising in taxable years
15 beginning after December 31, 2017.

16 (2) NET OPERATING LOSS LIMITED TO 90 PER-
17 CENT OF TAXABLE INCOME.—The amendments
18 made by subsection (c) shall apply to taxable years
19 beginning after December 31, 2017.

20 (3) ANNUAL INCREASE IN CARRYOVER
21 AMOUNTS.—The amendments made by subsection
22 (d) shall apply to amounts carried to taxable years
23 beginning after December 31, 2017.

24 (4) SPECIAL RULE FOR NET DISASTER
25 LOSSES.—Notwithstanding paragraph (1), the

1 amendments made by subsection (b) shall not apply
2 to the portion of the net operating loss for any tax-
3 able year which is a net disaster loss to which sec-
4 tion 504(b) of the Disaster Tax Relief and Airport
5 and Airway Extension Act of 2017 applies.

6 **SEC. 3303. LIKE-KIND EXCHANGES OF REAL PROPERTY.**

7 (a) IN GENERAL.—Section 1031(a)(1) is amended by
8 striking “property” each place it appears and inserting
9 “real property”.

10 (b) CONFORMING AMENDMENTS.—

11 (1) Paragraph (2) of section 1031(a) is amend-
12 ed to read as follows:

13 “(2) EXCEPTION FOR REAL PROPERTY HELD
14 FOR SALE.—This subsection shall not apply to any
15 exchange of real property held primarily for sale.”.

16 (2) Section 1031 is amended by striking sub-
17 sections (e) and (i).

18 (3) Section 1031, as amended by paragraph
19 (2), is amended by inserting after subsection (d) the
20 following new subsection:

21 “(e) APPLICATION TO CERTAIN PARTNERSHIPS.—
22 For purposes of this section, an interest in a partnership
23 which has in effect a valid election under section 761(a)
24 to be excluded from the application of all of subchapter

1 K shall be treated as an interest in each of the assets of
2 such partnership and not as an interest in a partnership.”.

3 (4) Section 1031(h) is amended to read as fol-
4 lows:

5 “(h) SPECIAL RULES FOR FOREIGN REAL PROP-
6 ERTY.—Real property located in the United States and
7 real property located outside the United States are not
8 property of a like kind.”.

9 (5) The heading of section 1031 is amended by
10 striking “**PROPERTY**” and inserting “**REAL PROP-**
11 **ERTY**”.

12 (6) The table of sections for part III of sub-
13 chapter O of chapter 1 is amended by striking the
14 item relating to section 1031 and inserting the fol-
15 lowing new item:

“Sec. 1031. Exchange of real property held for productive use or investment.”.

16 (c) EFFECTIVE DATE.—

17 (1) IN GENERAL.—Except as otherwise pro-
18 vided in this subsection, the amendments made by
19 this section shall apply to exchanges completed after
20 December 31, 2017.

21 (2) TRANSITION RULE.—The amendments
22 made by this section shall not apply to any exchange
23 if—

1 (A) the property disposed of by the tax-
2 payer in the exchange is disposed of on or be-
3 fore December 31 2017, or

4 (B) the property received by the taxpayer
5 in the exchange is received on or before Decem-
6 ber 31, 2017.

7 **SEC. 3304. REVISION OF TREATMENT OF CONTRIBUTIONS**
8 **TO CAPITAL.**

9 (a) INCLUSION OF CONTRIBUTIONS TO CAPITAL.—
10 Part II of subchapter B of chapter 1 is amended by insert-
11 ing after section 75 the following new section:

12 **“SEC. 76. CONTRIBUTIONS TO CAPITAL.**

13 “(a) IN GENERAL.—Gross income includes any con-
14 tribution to the capital of any entity.

15 “(b) TREATMENT OF CONTRIBUTIONS IN EXCHANGE
16 FOR STOCK, ETC.—

17 “(1) IN GENERAL.—In the case of any con-
18 tribution of money or other property to a corpora-
19 tion in exchange for stock of such corporation—

20 “(A) such contribution shall not be treated
21 for purposes of subsection (a) as a contribution
22 to the capital of such corporation (and shall not
23 be includible in the gross income of such cor-
24 poration), and

1 “(B) no gain or loss shall be recognized to
2 such corporation upon the issuance of such
3 stock.

4 “(2) TREATMENT LIMITED TO VALUE OF
5 STOCK.—For purposes of this subsection, a contribu-
6 tion of money or other property to a corporation
7 shall be treated as being in exchange for stock of
8 such corporation only to the extent that the fair
9 market value of such money and other property does
10 not exceed the fair market value of such stock.

11 “(3) APPLICATION TO ENTITIES OTHER THAN
12 CORPORATIONS.—In the case of any entity other
13 than a corporation, rules similar to the rules of
14 paragraphs (1) and (2) shall apply in the case of
15 any contribution of money or other property to such
16 entity in exchange for any interest in such entity.

17 “(c) TREASURY STOCK TREATED AS STOCK.—Any
18 reference in this section to stock shall be treated as includ-
19 ing a reference to treasury stock.”.

20 (b) BASIS OF CORPORATION IN CONTRIBUTED PROP-
21 ERTY.—

22 (1) CONTRIBUTIONS TO CAPITAL.—Subsection
23 (c) of section 362 is amended to read as follows:

24 “(c) CONTRIBUTIONS TO CAPITAL.—If property
25 other than money is transferred to a corporation as a con-

1 contribution to the capital of such corporation (within the
2 meaning of section 76) then the basis of such property
3 shall be the greater of—

4 “(1) the basis determined in the hands of the
5 transferor, increased by the amount of gain recog-
6 nized to the transferor on such transfer, or

7 “(2) the amount included in gross income by
8 such corporation under section 76 with respect to
9 such contribution.”.

10 (2) CONTRIBUTIONS IN EXCHANGE FOR
11 STOCK.—Paragraph (2) of section 362(a) is amend-
12 ed by striking “contribution to capital” and insert-
13 ing “contribution in exchange for stock of such cor-
14 poration (determined under rules similar to the rules
15 of paragraphs (2) and (3) of section 76(b))”.

16 (c) CONFORMING AMENDMENTS.—

17 (1) Section 108(e) is amended by striking para-
18 graph (6).

19 (2) Part III of subchapter B of chapter 1 is
20 amended by striking section 118 (and by striking
21 the item relating to such section in the table of sec-
22 tions for such part).

23 (3) The table of sections for part II of sub-
24 chapter B of chapter 1 is amended by inserting after

1 the item relating to section 75 the following new
2 item:

“Sec. 76. Contributions to capital.”.

3 (d) **EFFECTIVE DATE.**—The amendments made by
4 this section shall apply to contributions made, and trans-
5 actions entered into, after the date of the enactment of
6 this Act.

7 **SEC. 3305. REPEAL OF DEDUCTION FOR LOCAL LOBBYING**
8 **EXPENSES.**

9 (a) **IN GENERAL.**—Section 162(e) is amended by
10 striking paragraphs (2) and (7) and by redesignating
11 paragraphs (3), (4), (5), (6), and (8) as paragraphs (2),
12 (3), (4), (5), and (6), respectively.

13 (b) **CONFORMING AMENDMENT.**—Section
14 6033(e)(1)(B)(ii) is amended by striking “section
15 162(e)(5)(B)(ii)” and inserting “section
16 162(e)(4)(B)(ii)”.

17 (c) **EFFECTIVE DATE.**—The amendments made by
18 this section shall apply to amounts paid or incurred after
19 December 31, 2017.

20 **SEC. 3306. REPEAL OF DEDUCTION FOR INCOME ATTRIB-**
21 **UTABLE TO DOMESTIC PRODUCTION ACTIVI-**
22 **TIES.**

23 (a) **IN GENERAL.**—Part VI of subchapter B of chap-
24 ter 1 is amended by striking section 199 (and by striking

1 the item relating to such section in the table of sections
2 for such part).

3 (b) CONFORMING AMENDMENTS.—

4 (1) Sections 74(d)(2)(B), 86(b)(2)(A),
5 137(b)(3)(A), and 246(b)(1) are each amended by
6 striking “199,”.

7 (2) Section 170(b)(2)(D), as amended by the
8 preceding provisions of this Act, is amended by
9 striking clause (iv), by redesignating clause (v) as
10 clause (iv), and by inserting “and” at the end of
11 clause (iii).

12 (3) Section 172(d) is amended by striking para-
13 graph (7).

14 (4) Section 613(a) is amended by striking “and
15 without the deduction under section 199”.

16 (5) Section 613A(d)(1) is amended by striking
17 subparagraph (B) and by redesignating subpara-
18 graphs (C), (D), and (E) as subparagraphs (B), (C),
19 and (D), respectively.

20 (6) Section 1402(a) is amended by adding
21 “and” at the end of paragraph (15) and by striking
22 paragraph (16).

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to taxable years beginning after
25 December 31, 2017.

1 **SEC. 3307. ENTERTAINMENT, ETC. EXPENSES.**

2 (a) DENIAL OF DEDUCTION.—Subsection (a) of sec-
3 tion 274 is amended to read as follows:

4 “(a) ENTERTAINMENT, AMUSEMENT, RECREATION,
5 AND OTHER FRINGE BENEFITS .—

6 “(1) IN GENERAL.—No deduction otherwise al-
7 lowable under this chapter shall be allowed for
8 amounts paid or incurred for any of the following
9 items:

10 “(A) ACTIVITY.—With respect to an activ-
11 ity which is of a type generally considered to
12 constitute entertainment, amusement, or recre-
13 ation.

14 “(B) MEMBERSHIP DUES.—With respect
15 to membership in any club organized for busi-
16 ness, pleasure, recreation or other social pur-
17 poses.

18 “(C) AMENITY.—With respect to a de-
19 minimis fringe (as defined in section 132(e)(1))
20 that is primarily personal in nature and involv-
21 ing property or services that are not directly re-
22 lated to the taxpayer’s trade or business.

23 “(D) FACILITY.—With respect to a facility
24 or portion thereof used in connection with an
25 activity referred to in subparagraph (A), mem-
26 bership dues or similar amounts referred to in

1 subparagraph (B), or an amenity referred to in
2 subparagraph (C).

3 “(E) QUALIFIED TRANSPORTATION
4 FRINGE AND PARKING FACILITY.—Which is a
5 qualified transportation fringe (as defined in
6 section 132(f)) or which is a parking facility
7 used in connection with qualified parking (as
8 defined in section 132(f)(5)(C)).

9 “(F) ON-PREMISES ATHLETIC FACILITY.—
10 Which is an on-premises athletic facility as de-
11 fined in section 132(j)(4)(B).

12 “(2) SPECIAL RULES.—For purposes of apply-
13 ing paragraph (1), an activity described in section
14 212 shall be treated as a trade or business.

15 “(3) REGULATIONS.—Under the regulations
16 prescribed to carry out this section, the Secretary
17 shall include regulations—

18 “(A) defining entertainment, amenities,
19 recreation, amusement, and facilities for pur-
20 poses of this subsection,

21 “(B) providing for the appropriate alloca-
22 tion of depreciation and other costs with respect
23 to facilities used for parking or for on-premises
24 athletic facilities, and

1 “(C) specifying arrangements a primary
2 purpose of which is the avoidance of this sub-
3 section.”.

4 (b) EXCEPTION FOR CERTAIN EXPENSES INCLUD-
5 IBLE IN INCOME OF RECIPIENT.—

6 (1) EXPENSES TREATED AS COMPENSATION.—

7 Paragraph (2) of section 274(e) is amended to read
8 as follows:

9 “(2) EXPENSES TREATED AS COMPENSATION.—

10 Expenses for goods, services, and facilities, to the
11 extent that the expenses do not exceed the amount
12 of the expenses which are treated by the taxpayer,
13 with respect to the recipient of the entertainment,
14 amusement, or recreation, as compensation to an
15 employee on the taxpayer’s return of tax under this
16 chapter and as wages to such employee for purposes
17 of chapter 24 (relating to withholding of income tax
18 at source on wages).”.

19 (2) EXPENSES INCLUDIBLE IN INCOME OF PER-
20 SONS WHO ARE NOT EMPLOYEES.—Paragraph (9) of
21 section 274(e) is amended by striking “to the extent
22 that the expenses” and inserting “to the extent that
23 the expenses do not exceed the amount of the ex-
24 penses that”.

1 (c) EXCEPTIONS FOR REIMBURSED EXPENSES.—
2 Paragraph (3) of section 274(e) is amended to read as
3 follows:

4 “(3) REIMBURSED EXPENSES.—

5 “(A) IN GENERAL.—Expenses paid or in-
6 curred by the taxpayer, in connection with the
7 performance by him of services for another per-
8 son (whether or not such other person is the
9 taxpayer’s employer), under a reimbursement or
10 other expense allowance arrangement with such
11 other person, but this paragraph shall apply—

12 “(i) where the services are performed
13 for an employer, only if the employer has
14 not treated such expenses in the manner
15 provided in paragraph (2), or

16 “(ii) where the services are performed
17 for a person other than an employer, only
18 if the taxpayer accounts (to the extent pro-
19 vided by subsection (d)) to such person.

20 “(B) EXCEPTION.—Except as provided by
21 the Secretary, subparagraph (A) shall not
22 apply—

23 “(i) in the case of an arrangement in
24 which the person other than the employer

1 is an entity described in section
2 168(h)(2)(A), or

3 “(ii) to any other arrangement des-
4 ignated by the Secretary as having the ef-
5 fect of avoiding the limitation under sub-
6 paragraph (A).”.

7 (d) 50 PERCENT LIMITATION ON MEALS AND EN-
8 TERTAINMENT EXPENSES.—Subsection (n) of section 274
9 is amended to read as follows:

10 “(n) LIMITATION ON CERTAIN EXPENSES.—

11 “(1) IN GENERAL.—The amount allowable as a
12 deduction under this chapter for any expense for
13 food or beverages (pursuant to subsection (e)(1)) or
14 business meals (pursuant to subsection (k)(1)) shall
15 not exceed 50 percent of the amount of such expense
16 or item which would (but for this paragraph) be al-
17 lowable as a deduction under this chapter.

18 “(2) EXCEPTIONS.—Paragraph (1) shall not
19 apply to any expense if—

20 “(A) such expense is described in para-
21 graph (2), (3), (6), (7), or (8) of subsection (e),

22 “(B) in the case of an expense for food or
23 beverages, such expense is excludable from the
24 gross income of the recipient under section 132
25 by reason of subsection (e) thereof (relating to

1 de minimis fringes) or under section 119 (relat-
2 ing to meals and lodging furnished for conven-
3 ience of employer), or

4 “(C) in the case of an employer who pays
5 or reimburses moving expenses of an employee,
6 such expenses are includible in the income of
7 the employee under section 82.

8 “(3) SPECIAL RULE FOR INDIVIDUALS SUBJECT
9 TO FEDERAL HOURS OF SERVICE.—In the case of
10 any expenses for food or beverages consumed while
11 away from home (within the meaning of section
12 162(a)(2)) by an individual during, or incident to,
13 the period of duty subject to the hours of service
14 limitations of the Department of Transportation,
15 paragraph (1) shall be applied by substituting ‘80
16 percent’ for ‘50 percent’.”.

17 (e) CONFORMING AMENDMENTS.—

18 (1) Section 274(d) is amended—

19 (A) by striking paragraph (2) and redesignig-
20 nating paragraphs (3) and (4) as paragraphs
21 (2) and (3), respectively, and

22 (B) in the flush material following para-
23 graph (3) (as so redesignated)—

1 (i) by striking “, entertainment,
2 amusement, recreation, or” in item (B),
3 and

4 (ii) by striking “(D) the business rela-
5 tionship to the taxpayer of persons enter-
6 tained, using the facility or property, or re-
7 ceiving the gift” and inserting “(D) the
8 business relationship to the taxpayer of the
9 person receiving the benefit”.

10 (2) Section 274(e) is amended by striking para-
11 graph (4) and redesignating paragraphs (5), (6),
12 (7), (8), and (9) as paragraphs (4), (5), (6), (7),
13 and (8), respectively.

14 (3) Section 274(k)(2)(A) is amended by strik-
15 ing “(4), (7), (8), or (9)” and inserting “(6), (7), or
16 (8)”.

17 (4) Section 274 is amended by striking sub-
18 section (l).

19 (5) Section 274(m)(1)(B)(ii) is amended by
20 striking “(4), (7), (8), or (9)” and inserting “(6),
21 (7), or (8)”.

22 (f) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to amounts paid or incurred after
24 December 31, 2017.

1 **SEC. 3308. UNRELATED BUSINESS TAXABLE INCOME IN-**
2 **CREASED BY AMOUNT OF CERTAIN FRINGE**
3 **BENEFIT EXPENSES FOR WHICH DEDUCTION**
4 **IS DISALLOWED.**

5 (a) IN GENERAL.—Section 512(a) is amended by
6 adding at the end the following new paragraph:

7 “(6) INCREASE IN UNRELATED BUSINESS TAX-
8 ABLE INCOME BY DISALLOWED FRINGE.—Unrelated
9 business taxable income of an organization shall be
10 increased by any amount for which a deduction is
11 not allowable under this chapter by reason of section
12 274 and which is paid or incurred by such organiza-
13 tion for any qualified transportation fringe (as de-
14 fined in section 132(f)), any parking facility used in
15 connection with qualified parking (as defined in sec-
16 tion 132(f)(5)(C)), or any on-premises athletic facil-
17 ity (as defined in section 132(j)(4)(B)). The pre-
18 ceding sentence shall not apply to the extent the
19 amount paid or incurred is directly connected with
20 an unrelated trade or business which is regularly
21 carried on by the organization. The Secretary may
22 issue such regulations or other guidance as may be
23 necessary or appropriate to carry out the purposes
24 of this paragraph, including regulations or other
25 guidance providing for the appropriate allocation of
26 depreciation and other costs with respect to facilities

1 used for parking or for on-premises athletic facili-
2 ties.”.

3 (b) **EFFECTIVE DATE.**—The amendment made by
4 this section shall apply to amounts paid or incurred after
5 December 31, 2017.

6 **SEC. 3309. LIMITATION ON DEDUCTION FOR FDIC PRE-**
7 **MIUMS.**

8 (a) **IN GENERAL.**—Section 162 is amended by redес-
9 ignating subsection (q) as subsection (r) and by inserting
10 after subsection (p) the following new subsection:

11 “(q) **DISALLOWANCE OF FDIC PREMIUMS PAID BY**
12 **CERTAIN LARGE FINANCIAL INSTITUTIONS.**—

13 “(1) **IN GENERAL.**—No deduction shall be al-
14 lowed for the applicable percentage of any FDIC
15 premium paid or incurred by the taxpayer.

16 “(2) **EXCEPTION FOR SMALL INSTITUTIONS.**—
17 Paragraph (1) shall not apply to any taxpayer for
18 any taxable year if the total consolidated assets of
19 such taxpayer (determined as of the close of such
20 taxable year) do not exceed \$10,000,000,000.

21 “(3) **APPLICABLE PERCENTAGE.**—For purposes
22 of this subsection, the term ‘applicable percentage’
23 means, with respect to any taxpayer for any taxable
24 year, the ratio (expressed as a percentage but not
25 greater than 100 percent) which—

1 “(A) the excess of—

2 “(i) the total consolidated assets of
3 such taxpayer (determined as of the close
4 of such taxable year), over

5 “(ii) \$10,000,000,000, bears to

6 “(B) \$40,000,000,000.

7 “(4) FDIC PREMIUMS.—For purposes of this
8 subsection, the term ‘FDIC premium’ means any as-
9 sessment imposed under section 7(b) of the Federal
10 Deposit Insurance Act (12 U.S.C. 1817(b)).

11 “(5) TOTAL CONSOLIDATED ASSETS.—For pur-
12 poses of this subsection, the term ‘total consolidated
13 assets’ has the meaning given such term under sec-
14 tion 165 of the Dodd-Frank Wall Street Reform and
15 Consumer Protection Act (12 U.S.C. 5365).

16 “(6) AGGREGATION RULE.—

17 “(A) IN GENERAL.—Members of an ex-
18 panded affiliated group shall be treated as a
19 single taxpayer for purposes of applying this
20 subsection.

21 “(B) EXPANDED AFFILIATED GROUP.—
22 For purposes of this paragraph, the term ‘ex-
23 panded affiliated group’ means an affiliated
24 group as defined in section 1504(a), deter-
25 mined—

1 (2) by striking “1044(d),”.

2 (c) EFFECTIVE DATE.—The amendments made by
3 this section shall apply to sales after December 31, 2017.

4 **SEC. 3311. CERTAIN SELF-CREATED PROPERTY NOT TREAT-**
5 **ED AS A CAPITAL ASSET.**

6 (a) PATENTS, ETC.—Section 1221(a)(3) is amended
7 by inserting “a patent, invention, model or design (wheth-
8 er or not patented), a secret formula or process,” before
9 “a copyright”.

10 (b) SELF-CREATED MUSICAL WORKS.—Section
11 1221(b) is amended by striking paragraph (3) and redес-
12 ignating paragraph (4) as paragraph (3).

13 (c) CONFORMING AMENDMENTS.—

14 (1) Section 170(e)(1)(A) is amended by striking
15 “(determined without regard to section
16 1221(b)(3))”.

17 (2) Section 1231(b)(1)(C) is amended by insert-
18 ing “a patent, invention, model or design (whether
19 or not patented), a secret formula or process,” be-
20 fore “a copyright”.

21 (d) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to dispositions after December 31,
23 2017.

1 **SEC. 3312. REPEAL OF SPECIAL RULE FOR SALE OR EX-**
2 **CHANGE OF PATENTS.**

3 (a) IN GENERAL.—Part IV of subchapter P of chap-
4 ter 1 is amended by striking section 1235 (and by striking
5 the item relating to such section in the table of sections
6 of such part).

7 (b) CONFORMING AMENDMENTS.—

8 (1) Section 483(d) is amended by striking para-
9 graph (4).

10 (2) Section 901(l)(5) is amended by striking
11 “without regard to section 1235 or any similar rule”
12 and inserting “without regard to any provision
13 which treats a disposition as a sale or exchange of
14 a capital asset held for more than 1 year or any
15 similar provision”.

16 (3) Section 1274(c)(3) is amended by striking
17 subparagraph (E) and redesignating subparagraph
18 (F) as subparagraph (E).

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to dispositions after December 31,
21 2017.

22 **SEC. 3313. REPEAL OF TECHNICAL TERMINATION OF PART-**
23 **NERSHIPS.**

24 (a) IN GENERAL.—Paragraph (1) of section 708(b)
25 is amended—

1 (1) by striking “, or” at the end of subpara-
2 graph (A) and all that follows and inserting a pe-
3 riod, and

4 (2) by striking “only if—” and all that follows
5 through “no part of any business” and inserting the
6 following: “only if no part of any business”.

7 (b) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to partnership taxable years begin-
9 ning after December 31, 2017.

10 **Subtitle E—Reform of Business** 11 **Credits**

12 **SEC. 3401. REPEAL OF CREDIT FOR CLINICAL TESTING EX-** 13 **PENSES FOR CERTAIN DRUGS FOR RARE DIS-** 14 **EASES OR CONDITIONS.**

15 (a) IN GENERAL.—Subpart D of part IV of sub-
16 chapter A of chapter 1 is amended by striking section 45C
17 (and by striking the item relating to such section in the
18 table of sections for such subpart).

19 (b) CONFORMING AMENDMENTS.—

20 (1) Section 38(b) is amended by striking para-
21 graph (12).

22 (2) Section 280C is amended by striking sub-
23 section (b).

24 (3) Section 6501(m) is amended by striking
25 “45C(d)(4),”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to amounts paid or incurred in tax-
3 able years beginning after December 31, 2017.

4 **SEC. 3402. REPEAL OF EMPLOYER-PROVIDED CHILD CARE**
5 **CREDIT.**

6 (a) IN GENERAL.—Subpart D of part IV of sub-
7 chapter A of chapter 1 is amended by striking section 45F
8 (and by striking the item relating to such section in the
9 table of sections for such subpart).

10 (b) CONFORMING AMENDMENTS.—

11 (1) Section 38(b) is amended by striking para-
12 graph (15).

13 (2) Section 1016(a) is amended by striking
14 paragraph (28).

15 (c) EFFECTIVE DATE.—

16 (1) IN GENERAL.—Except as otherwise pro-
17 vided in this subsection, the amendments made by
18 this section shall apply to taxable years beginning
19 after December 31, 2017.

20 (2) BASIS ADJUSTMENTS.—The amendment
21 made by subsection (b)(2) shall apply to credits de-
22 termined for taxable years beginning after December
23 31, 2017.

1 **SEC. 3403. REPEAL OF REHABILITATION CREDIT.**

2 (a) IN GENERAL.—Subpart E of part IV of sub-
3 chapter A of chapter 1 is amended by striking section 47
4 (and by striking the item relating to such section in the
5 table of sections for such subpart).

6 (b) CONFORMING AMENDMENTS.—

7 (1) Section 170(f)(14)(A) is amended by insert-
8 ing “(as in effect before its repeal by the Tax Cuts
9 and Jobs Act)” after “section 47”.

10 (2) Section 170(h)(4) is amended—

11 (A) by striking “(as defined in section
12 47(c)(3)(B))” in subparagraph (C)(ii), and

13 (B) by adding at the end the following new
14 subparagraph:

15 “(D) REGISTERED HISTORIC DISTRICT.—

16 The term ‘registered historic district’ means—

17 “(i) any district listed in the National
18 Register, and

19 “(ii) any district—

20 “(I) which is designated under a
21 statute of the appropriate State or
22 local government, if such statute is
23 certified by the Secretary of the Inte-
24 rior to the Secretary as containing cri-
25 teria which will substantially achieve
26 the purpose of preserving and reha-

1 bilitating buildings of historic signifi-
2 cance to the district, and

3 “(II) which is certified by the
4 Secretary of the Interior to the Sec-
5 retary as meeting substantially all of
6 the requirements for the listing of dis-
7 tricts in the National Register.”.

8 (3) Section 469(i)(3) is amended by striking
9 subparagraph (B).

10 (4) Section 469(i)(6)(B) is amended—

11 (A) by striking “in the case of—” and all
12 that follows and inserting “in the case of any
13 credit determined under section 42 for any tax-
14 able year.”, and

15 (B) by striking “, REHABILITATION CRED-
16 IT,” in the heading thereof.

17 (5) Section 469(k)(1) is amended by striking “,
18 or any rehabilitation credit determined under section
19 47,”.

20 (c) EFFECTIVE DATE.—

21 (1) IN GENERAL.—Except as provided in para-
22 graph (2), the amendments made by this section
23 shall apply to amounts paid or incurred after De-
24 cember 31, 2017.

1 (2) TRANSITION RULE.—In the case of quali-
2 fied rehabilitation expenditures (within the meaning
3 of section 47 of the Internal Revenue Code of 1986
4 as in effect before its repeal) with respect to any
5 building—

6 (A) owned or leased (as permitted by sec-
7 tion 47 of the Internal Revenue Code of 1986
8 as in effect before its repeal) by the taxpayer at
9 all times after December 31, 2017, and

10 (B) with respect to which the 24-month
11 period selected by the taxpayer under section
12 47(e)(1)(C) of such Code begins not later than
13 the end of the 180-day period beginning on the
14 date of the enactment of this Act,

15 the amendments made by this section shall apply to
16 such expenditures paid or incurred after the end of
17 the taxable year in which the 24-month period re-
18 ferred to in subparagraph (B) ends.

19 **SEC. 3404. REPEAL OF WORK OPPORTUNITY TAX CREDIT.**

20 (a) IN GENERAL.—Subpart F of part IV of sub-
21 chapter A of chapter 1 is amended by striking section 51
22 (and by striking the item relating to such section in the
23 table of sections for such subpart).

24 (b) CLERICAL AMENDMENT.—The heading of such
25 subpart F (and the item relating to such subpart in the

1 table of subparts for part IV of subchapter A of chapter
2 1) are each amended by striking “Rules for Computing
3 Work Opportunity Credit” and inserting “Special Rules”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to amounts paid or incurred to
6 individuals who begin work for the employer after Decem-
7 ber 31, 2017.

8 **SEC. 3405. REPEAL OF DEDUCTION FOR CERTAIN UNUSED**
9 **BUSINESS CREDITS.**

10 (a) IN GENERAL.—Part VI of subchapter B of chap-
11 ter 1 is amended by striking section 196 (and by striking
12 the item relating to such section in the table of sections
13 for such part).

14 (b) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to taxable years beginning after
16 December 31, 2017.

17 **SEC. 3406. TERMINATION OF NEW MARKETS TAX CREDIT.**

18 (a) IN GENERAL.—Section 45D(f) is amended—

19 (1) by striking “2019” in paragraph (1)(G) and
20 inserting “2017”, and

21 (2) by striking “2024” in paragraph (3) and in-
22 serting “2022”.

23 (b) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to calendar years beginning after
25 December 31, 2017.

1 **SEC. 3407. REPEAL OF CREDIT FOR EXPENDITURES TO**
2 **PROVIDE ACCESS TO DISABLED INDIVID-**
3 **UALS.**

4 (a) **IN GENERAL.**—Subpart D of part IV of sub-
5 chapter A of chapter 1 is amended by striking section 44
6 (and by striking the item relating to such section in the
7 table of sections for such subpart).

8 (b) **CONFORMING AMENDMENT.**—Section 38(b) is
9 amended by striking paragraph (7).

10 (c) **EFFECTIVE DATE.**—The amendments made by
11 this section shall apply to taxable years beginning after
12 December 31, 2017.

13 **SEC. 3408. MODIFICATION OF CREDIT FOR PORTION OF EM-**
14 **PLOYER SOCIAL SECURITY TAXES PAID WITH**
15 **RESPECT TO EMPLOYEE TIPS.**

16 (a) **CREDIT DETERMINED WITH RESPECT TO MIN-**
17 **IMUM WAGE AS IN EFFECT.**—Section 45B(b)(1)(B) is
18 amended by striking “as in effect on January 1, 2007,
19 and”.

20 (b) **INFORMATION RETURN REQUIREMENT.**—Section
21 45B is amended by redesignating subsections (c) and (d)
22 as subsections (d) and (e), respectively, and by inserting
23 after subsection (b) the following new subsection:

24 “(c) **INFORMATION RETURN REQUIREMENT.**—

25 “(1) **IN GENERAL.**—No credit shall be deter-
26 mined under subsection (a) with respect to any food

1 or beverage establishment of any taxpayer for any
2 taxable year unless such taxpayer has, with respect
3 to the calendar year which ends in or with such tax-
4 able year—

5 “(A) made a report to the Secretary show-
6 ing the information described in section
7 6053(c)(1) with respect to such food or bev-
8 erage establishment, and

9 “(B) furnished written statements to each
10 employee of such food or beverage establish-
11 ment showing the information described in sec-
12 tion 6053(c)(2).

13 “(2) ALLOCATION OF 10 PERCENT OF GROSS
14 RECEIPTS.—For purposes of determining the infor-
15 mation referred to in subparagraphs (A) and (B),
16 section 6053(c)(3)(A)(i) shall be applied by sub-
17 stituting ‘10 percent’ for ‘8 percent’. For purposes
18 of section 6053(c)(5), any reference to section
19 6053(c)(3)(B) contained therein shall be treated as
20 including a reference to this paragraph.

21 “(3) FOOD OR BEVERAGE ESTABLISHMENT.—
22 For purposes of this subsection, the term ‘food or
23 beverage establishment’ means any trade or business
24 (or portion thereof) which would be a large food or
25 beverage establishment (as defined in section

1 6053(e)(4)) if such section were applied without re-
2 gard to subparagraph (C) thereof.”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years beginning after
5 December 31, 2017.

6 **Subtitle F—Energy Credits**

7 **SEC. 3501. MODIFICATIONS TO CREDIT FOR ELECTRICITY** 8 **PRODUCED FROM CERTAIN RENEWABLE RE-** 9 **SOURCES.**

10 (a) TERMINATION OF INFLATION ADJUSTMENT.—
11 Section 45(b)(2) is amended—

12 (1) by striking “The 1.5 cent amount” and in-
13 serting the following:

14 “(A) IN GENERAL.—The 1.5 cent
15 amount”, and

16 (2) by adding at the end the following new sub-
17 paragraph:

18 “(B) TERMINATION.—Subparagraph (A)
19 shall not apply with respect to any electricity or
20 refined coal produced at a facility the construc-
21 tion of which begins after the date of the enact-
22 ment of this subparagraph.”.

23 (b) SPECIAL RULE FOR DETERMINATION OF BEGIN-
24 NING OF CONSTRUCTION.—Section 45(e) is amended by
25 adding at the end the following new paragraph:

1 “(12) SPECIAL RULE FOR DETERMINING BE-
2 GINNING OF CONSTRUCTION.—For purposes of sub-
3 section (d), the construction of any facility, modi-
4 fication, improvement, addition, or other property
5 shall not be treated as beginning before any date un-
6 less there is a continuous program of construction
7 which begins before such date and ends on the date
8 that such property is placed in service.”.

9 (c) EFFECTIVE DATES.—

10 (1) TERMINATION OF INFLATION ADJUST-
11 MENT.—The amendments made by subsection (a)
12 shall apply to taxable years ending after the date of
13 the enactment of this Act.

14 (2) SPECIAL RULE FOR DETERMINATION OF
15 BEGINNING OF CONSTRUCTION.—The amendment
16 made by subsection (b) shall apply to taxable years
17 beginning before, on, or after the date of the enact-
18 ment of this Act.

19 **SEC. 3502. MODIFICATION OF THE ENERGY INVESTMENT**
20 **TAX CREDIT.**

21 (a) EXTENSION OF SOLAR ENERGY PROPERTY.—
22 Section 48(a)(3)(A)(ii) is amended by striking “periods
23 ending before January 1, 2017” and inserting “property
24 the construction of which begins before January 1, 2022”.

1 (b) EXTENSION OF QUALIFIED FUEL CELL PROP-
2 erty.—Section 48(c)(1)(D) is amended by striking “for
3 any period after December 31, 2016” and inserting “the
4 construction of which does not begin before January 1,
5 2022”.

6 (c) EXTENSION OF QUALIFIED MICROTURBINE
7 PROPERTY.—Section 48(c)(2)(D) is amended by striking
8 “for any period after December 31, 2016” and inserting
9 “the construction of which does not begin before January
10 1, 2022”.

11 (d) EXTENSION OF COMBINED HEAT AND POWER
12 SYSTEM PROPERTY.—Section 48(c)(3)(A)(iv) is amended
13 by striking “which is placed in service before January 1,
14 2017” and inserting “the construction of which begins be-
15 fore January 1, 2022”.

16 (e) EXTENSION OF QUALIFIED SMALL WIND EN-
17 ERGY PROPERTY.—Section 48(c)(4)(C) is amended by
18 striking “for any period after December 31, 2016” and
19 inserting “the construction of which does not begin before
20 January 1, 2022”.

21 (f) EXTENSION OF THERMAL ENERGY PROPERTY.—
22 Section 48(a)(3)(A)(vii) is amended by striking “periods
23 ending before January 1, 2017” and inserting “property
24 the construction of which begins before January 1, 2022”.

1 (g) PHASEOUT OF 30 PERCENT CREDIT RATE FOR
2 FUEL CELL AND SMALL WIND ENERGY PROPERTY.—
3 Section 48(a) is amended by adding at the end the fol-
4 lowing new paragraph:

5 “(7) PHASEOUT FOR QUALIFIED FUEL CELL
6 PROPERTY AND QUALIFIED SMALL WIND ENERGY
7 PROPERTY.—

8 “(A) IN GENERAL.—In the case of quali-
9 fied fuel cell property or qualified small wind
10 energy property, the construction of which be-
11 gins before January 1, 2022, the energy per-
12 centage determined under paragraph (2) shall
13 be equal to—

14 “(i) in the case of any property the
15 construction of which begins after Decem-
16 ber 31, 2019, and before January 1, 2021,
17 26 percent, and

18 “(ii) in the case of any property the
19 construction of which begins after Decem-
20 ber 31, 2020, and before January 1, 2022,
21 22 percent.

22 “(B) PLACED IN SERVICE DEADLINE.—In
23 the case of any qualified fuel cell property or
24 qualified small wind energy property, the con-
25 struction of which begins before January 1,

1 2022, and which is not placed in service before
2 January 1, 2024, the energy percentage deter-
3 mined under paragraph (2) shall be equal to 10
4 percent.”.

5 (h) PHASEOUT FOR FIBER-OPTIC SOLAR ENERGY
6 PROPERTY.—Subparagraphs (A) and (B) of section
7 48(a)(6) are each amended by inserting “or (3)(A)(ii)”
8 after “paragraph (3)(A)(i)”.

9 (i) TERMINATION OF SOLAR ENERGY PROPERTY.—
10 Section 48(a)(3)(A)(i) is amended by inserting “, the con-
11 struction of which begins before January 1, 2028, and”
12 after “equipment”.

13 (j) TERMINATION OF GEOTHERMAL ENERGY PROP-
14 PERTY.—Section 48(a)(3)(A)(iii) is amended by inserting
15 “, the construction of which begins before January 1,
16 2028, and” after “equipment”.

17 (k) SPECIAL RULE FOR DETERMINATION OF BEGIN-
18 NING OF CONSTRUCTION.—Section 48(c) is amended by
19 adding at the end the following new paragraph:

20 “(5) SPECIAL RULE FOR DETERMINING BEGIN-
21 NING OF CONSTRUCTION.—The construction of any
22 facility, modification, improvement, addition, or
23 other property shall not be treated as beginning be-
24 fore any date unless there is a continuous program
25 of construction which begins before such date and

1 ends on the date that such property is placed in
2 service.”.

3 (l) EFFECTIVE DATE.—

4 (1) IN GENERAL.—Except as otherwise pro-
5 vided in this subsection, the amendments made by
6 this section shall apply to periods after December
7 31, 2016, under rules similar to the rules of section
8 48(m) of the Internal Revenue Code of 1986 (as in
9 effect on the day before the date of the enactment
10 of the Revenue Reconciliation Act of 1990).

11 (2) EXTENSION OF COMBINED HEAT AND
12 POWER SYSTEM PROPERTY.—The amendment made
13 by subsection (d) shall apply to property placed in
14 service after December 31, 2016.

15 (3) PHASEOUTS AND TERMINATIONS.—The
16 amendments made by subsections (g), (h), (i), and
17 (j) shall take effect on the date of the enactment of
18 this Act.

19 (4) SPECIAL RULE FOR DETERMINATION OF
20 BEGINNING OF CONSTRUCTION.—The amendment
21 made by subsection (k) shall apply to taxable years
22 beginning before, on, or after the date of the enact-
23 ment of this Act.

1 **SEC. 3503. EXTENSION AND PHASEOUT OF RESIDENTIAL**
2 **ENERGY EFFICIENT PROPERTY.**

3 (a) EXTENSION.—Section 25D(h) is amended by
4 striking “December 31, 2016 (December 31, 2021, in the
5 case of any qualified solar electric property expenditures
6 and qualified solar water heating property expenditures)”
7 and inserting “December 31, 2021”.

8 (b) PHASEOUT.—

9 (1) IN GENERAL.—Paragraphs (3), (4), and (5)
10 of section 25D(a) are amended by striking “30 per-
11 cent” each place it appears and inserting “the appli-
12 cable percentage”.

13 (2) CONFORMING AMENDMENT.—Section
14 25D(g) of such Code is amended by striking “para-
15 graphs (1) and (2) of”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to property placed in service after
18 December 31, 2016.

19 **SEC. 3504. REPEAL OF ENHANCED OIL RECOVERY CREDIT.**

20 (a) IN GENERAL.—Subpart D of part IV of sub-
21 chapter A of chapter 1 is amended by striking section 43
22 (and by striking the item relating to such section in the
23 table of sections for such subpart).

24 (b) CONFORMING AMENDMENTS.—

25 (1) Section 38(b) is amended by striking para-
26 graph (6).

1 (2) Section 6501(m) is amended by striking
2 “43,”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years beginning after
5 December 31, 2017.

6 **SEC. 3505. REPEAL OF CREDIT FOR PRODUCING OIL AND**
7 **GAS FROM MARGINAL WELLS.**

8 (a) IN GENERAL.—Subpart D of part IV of sub-
9 chapter A of chapter 1 is amended by striking section 45I
10 (and by striking the item relating to such section in the
11 table of sections for such subpart).

12 (b) CONFORMING AMENDMENT.—Section 38(b) is
13 amended by striking paragraph (19).

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to taxable years beginning after
16 December 31, 2017.

17 **SEC. 3506. MODIFICATIONS OF CREDIT FOR PRODUCTION**
18 **FROM ADVANCED NUCLEAR POWER FACILI-**
19 **TIES.**

20 (a) TREATMENT OF UNUTILIZED LIMITATION
21 AMOUNTS.—Section 45J(b) is amended—

22 (1) in paragraph (4), by inserting “or any
23 amendment to” after “enactment of”; and

24 (2) by adding at the end the following new
25 paragraph:

1 “(5) ALLOCATION OF UNUTILIZED LIMITA-
2 TION.—

3 “(A) IN GENERAL.—Any unutilized na-
4 tional megawatt capacity limitation shall be al-
5 located by the Secretary under paragraph (3)
6 as rapidly as is practicable after December 31,
7 2020—

8 “(i) first to facilities placed in service
9 on or before such date to the extent that
10 such facilities did not receive an allocation
11 equal to their full nameplate capacity; and

12 “(ii) then to facilities placed in service
13 after such date in the order in which such
14 facilities are placed in service.

15 “(B) UNUTILIZED NATIONAL MEGAWATT
16 CAPACITY LIMITATION.—The term ‘unutilized
17 national megawatt capacity limitation’ means
18 the excess (if any) of—

19 “(i) 6,000 megawatts, over

20 “(ii) the aggregate amount of national
21 megawatt capacity limitation allocated by
22 the Secretary before January 1, 2021, re-
23 duced by any amount of such limitation
24 which was allocated to a facility which was
25 not placed in service before such date.

1 “(C) COORDINATION WITH OTHER PROVI-
2 SIONS.—In the case of any unutilized national
3 megawatt capacity limitation allocated by the
4 Secretary pursuant to this paragraph—

5 “(i) such allocation shall be treated
6 for purposes of this section in the same
7 manner as an allocation of national mega-
8 watt capacity limitation; and

9 “(ii) subsection (d)(1)(B) shall not
10 apply to any facility which receives such al-
11 location.”.

12 (b) TRANSFER OF CREDIT BY CERTAIN PUBLIC EN-
13 TITIES.—

14 (1) IN GENERAL.—Section 45J is amended—

15 (A) by redesignating subsection (e) as sub-
16 section (f); and

17 (B) by inserting after subsection (d) the
18 following new subsection:

19 “(e) TRANSFER OF CREDIT BY CERTAIN PUBLIC EN-
20 TITIES.—

21 “(1) IN GENERAL.—If, with respect to a credit
22 under subsection (a) for any taxable year—

23 “(A) the taxpayer would be a qualified
24 public entity; and

1 “(B) such entity elects the application of
2 this paragraph for such taxable year with re-
3 spect to all (or any portion specified in such
4 election) of such credit,
5 the eligible project partner specified in such election
6 (and not the qualified public entity) shall be treated
7 as the taxpayer for purposes of this title with re-
8 spect to such credit (or such portion thereof).

9 “(2) DEFINITIONS.—For purposes of this sub-
10 section—

11 “(A) QUALIFIED PUBLIC ENTITY.—The
12 term ‘qualified public entity’ means—

13 “(i) a Federal, State, or local govern-
14 ment entity, or any political subdivision,
15 agency, or instrumentality thereof;

16 “(ii) a mutual or cooperative electric
17 company described in section 501(c)(12) or
18 section 1381(a)(2); or

19 “(iii) a not-for-profit electric utility
20 which has or had received a loan or loan
21 guarantee under the Rural Electrification
22 Act of 1936.

23 “(B) ELIGIBLE PROJECT PARTNER.—The
24 term ‘eligible project partner’ means—

1 “(i) any person responsible for, or
2 participating in, the design or construction
3 of the advanced nuclear power facility to
4 which the credit under subsection (a) re-
5 lates;

6 “(ii) any person who participates in
7 the provision of the nuclear steam supply
8 system to the advanced nuclear power fa-
9 cility to which the credit under subsection
10 (a) relates;

11 “(iii) any person who participates in
12 the provision of nuclear fuel to the ad-
13 vanced nuclear power facility to which the
14 credit under subsection (a) relates; or

15 “(iv) any person who has an owner-
16 ship interest in such facility.

17 “(3) SPECIAL RULES.—

18 “(A) APPLICATION TO PARTNERSHIPS.—In
19 the case of a credit under subsection (a) which
20 is determined at the partnership level—

21 “(i) for purposes of paragraph (1)(A),
22 a qualified public entity shall be treated as
23 the taxpayer with respect to such entity’s
24 distributive share of such credit; and

1 “(ii) the term ‘eligible project partner’
2 shall include any partner of the partner-
3 ship.

4 “(B) TAXABLE YEAR IN WHICH CREDIT
5 TAKEN INTO ACCOUNT.—In the case of any
6 credit (or portion thereof) with respect to which
7 an election is made under paragraph (1), such
8 credit shall be taken into account in the first
9 taxable year of the eligible project partner end-
10 ing with, or after, the qualified public entity’s
11 taxable year with respect to which the credit
12 was determined.

13 “(C) TREATMENT OF TRANSFER UNDER
14 PRIVATE USE RULES.—For purposes of section
15 141(b)(1), any benefit derived by an eligible
16 project partner in connection with an election
17 under this subsection shall not be taken into ac-
18 count as a private business use.”.

19 (2) SPECIAL RULE FOR PROCEEDS OF TRANS-
20 FERS FOR MUTUAL OR COOPERATIVE ELECTRIC
21 COMPANIES.—Section 501(c)(12) of such Code is
22 amended by adding at the end the following new
23 subparagraph:

24 “(I) In the case of a mutual or cooperative
25 electric company described in this paragraph or

1 an organization described in section 1381(a)(2),
2 income received or accrued in connection with
3 an election under section 45J(e)(1) shall be
4 treated as an amount collected from members
5 for the sole purpose of meeting losses and ex-
6 penses.”.

7 (c) EFFECTIVE DATES.—

8 (1) TREATMENT OF UNUTILIZED LIMITATION
9 AMOUNTS.—The amendment made by subsection (a)
10 shall take effect on the date of the enactment of this
11 Act.

12 (2) TRANSFER OF CREDIT BY CERTAIN PUBLIC
13 ENTITIES.—The amendments made by subsection
14 (b) shall apply to taxable years beginning after the
15 date of the enactment of this Act.

16 **Subtitle G—Bond Reforms**

17 **SEC. 3601. TERMINATION OF PRIVATE ACTIVITY BONDS.**

18 (a) IN GENERAL.—Paragraph (1) of section 103(b)
19 is amended—

20 (1) by striking “which is not a qualified bond
21 (within the meaning of section 141)”, and

22 (2) by striking “WHICH IS NOT A QUALIFIED
23 BOND” in the heading thereof.

24 (b) CONFORMING AMENDMENTS.—

1 (1) Subpart A of part IV of subchapter B of
2 chapter 1 is amended by striking sections 142, 143,
3 144, 145, 146, and 147 (and by striking each of the
4 items relating to such sections in the table of sec-
5 tions for such subpart).

6 (2) Section 25 is amended by adding at the end
7 the following new subsection:

8 “(j) COORDINATION WITH REPEAL OF PRIVATE AC-
9 TIVITY BONDS.—Any reference to section 143, 144, or
10 146 shall be treated as a reference to such section as in
11 effect before its repeal by the Tax Cuts and Jobs Act.”.

12 (3) Section 26(b)(2) is amended by striking
13 subparagraph (D).

14 (4) Section 141(b) is amended by striking para-
15 graphs (5) and (9).

16 (5) Section 141(d) is amended by striking para-
17 graph (5).

18 (6) Section 141 is amended by striking sub-
19 section (e).

20 (7) Section 148(f)(4) is amended—

21 (A) by striking “(determined in accordance
22 with section 147(b)(2)(A))” in the flush matter
23 following subparagraph (A)(ii) and inserting
24 “(determined by taking into account the respec-

1 tive issue prices of the bonds issued as part of
2 the issue)”, and

3 (B) by striking the last sentence of sub-
4 paragraph (D)(v).

5 (8) Clause (iv) of section 148(f)(4)(C) is
6 amended to read as follows:

7 “(iv) CONSTRUCTION ISSUE.—For
8 purposes of this subparagraph—

9 “(I) IN GENERAL.—The term
10 ‘construction issue’ means any issue if
11 at least 75 percent of the available
12 construction proceeds of such issue
13 are to be used for construction ex-
14 penditures.

15 “(II) CONSTRUCTION.—The term
16 ‘construction’ includes reconstruction
17 and rehabilitation”.

18 (9) Section 149(b)(3) is amended by striking
19 subparagraph (C).

20 (10) Section 149(e)(2) is amended—

21 (A) by striking subparagraphs (C), (D),
22 and (F) and by redesignating subparagraphs
23 (E) and (G) as subparagraphs (C) and (D), re-
24 spectively, and

25 (B) by striking the second sentence.

1 (11) Section 149(f)(6) is amended—

2 (A) by striking subparagraph (B), and

3 (B) by striking “For purposes of this sub-
4 section” and all that follows through “The
5 term” and inserting the following: “For pur-
6 poses of this subsection, the term”.

7 (12) Section 150(e)(3) is amended to read as
8 follows:

9 “(3) PUBLIC APPROVAL REQUIREMENT.—A
10 bond shall not be treated as part of an issue which
11 meets the requirements of paragraph (1) unless such
12 bond satisfies the requirements of section 147(f)(2)
13 (as in effect before its repeal by the Tax Cuts and
14 Jobs Act).”.

15 (13) Section 269A(b)(3) is amended by striking
16 “144(a)(3)” and inserting “414(n)(6)(A)”.

17 (14) Section 414(m)(5) is amended by striking
18 “section 144(a)(3)” and inserting “subsection
19 (n)(6)(A)”.

20 (15) Section 414(n)(6)(A) is amended to read
21 as follows:

22 “(A) RELATED PERSONS.—A person is a
23 related person to another person if—

1 “(i) the relationship between such per-
2 sons would result in a disallowance of
3 losses under section 267 or 707(b), or

4 “(ii) such persons are members of the
5 same controlled group of corporations (as
6 defined in section 1563(a), except that
7 ‘more than 50 percent’ shall be substituted
8 for ‘at least 80 percent’ each place it ap-
9 pears therein).”.

10 (16) Section 6045(e)(4)(B) is amended by in-
11 serting “(as in effect before its repeal by the Tax
12 Cuts and Jobs Act)” after “section 143(m)(3)”.

13 (17) Section 6654(f)(1) is amended by inserting
14 “(as in effect before its repeal by the Tax Cuts and
15 Jobs Act)” after “section 143(m)”.

16 (18) Section 7871(c) is amended—

17 (A) by striking paragraphs (2) and (3),
18 and

19 (B) by striking “TAX-EXEMPT BONDS.—”
20 and all that follows through “Subsection (a) of
21 section 103” and inserting the following: “TAX-
22 EXEMPT BONDS.—Subsection (a) of section
23 103”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to bonds issued after December
3 31, 2017.

4 **SEC. 3602. REPEAL OF ADVANCE REFUNDING BONDS.**

5 (a) IN GENERAL.—Paragraph (1) of section 149(d)
6 is amended by striking “as part of an issue described in
7 paragraph (2), (3), or (4).” and inserting “to advance re-
8 fund another bond.”.

9 (b) CONFORMING AMENDMENTS.—

10 (1) Section 149(d) is amended by striking para-
11 graphs (2), (3), (4), and (6) and by redesignating
12 paragraphs (5) and (7) as paragraphs (2) and (3).

13 (2) Section 148(f)(4)(C) is amended by striking
14 clause (xiv) and by redesignating clauses (xv) to
15 (xvii) as clauses (xiv) to (xvi).

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to advance refunding bonds issued
18 after December 31, 2017.

19 **SEC. 3603. REPEAL OF TAX CREDIT BONDS.**

20 (a) IN GENERAL.—Part IV of subchapter A of chap-
21 ter 1 is amended by striking subparts H, I, and J (and
22 by striking the items relating to such subparts in the table
23 of subparts for such part).

24 (b) PAYMENTS TO ISSUERS.—Subchapter B of chap-
25 ter 65 is amended by striking section 6431 (and by strik-

1 ing the item relating to such section in the table of sec-
2 tions for such subchapter).

3 (c) CONFORMING AMENDMENTS.—

4 (1) Part IV of subchapter U of chapter 1 is
5 amended by striking section 1397E (and by striking
6 the item relating to such section in the table of sec-
7 tions for such part).

8 (2) Section 54(l)(3)(B) is amended by inserting
9 “(as in effect before its repeal by the Tax Cuts and
10 Jobs Act)” after “section 1397E(I)”.

11 (3) Section 6211(b)(4)(A) is amended by strik-
12 ing “, and 6431” and inserting “and” before
13 “36B”.

14 (4) Section 6401(b)(1) is amended by striking
15 “G, H, I, and J” and inserting “and G”.

16 (d) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to bonds issued after December
18 31, 2017.

19 **SEC. 3604. NO TAX EXEMPT BONDS FOR PROFESSIONAL**
20 **STADIUMS.**

21 (a) IN GENERAL.—Section 103(b), as amended by
22 this Act, is further amended by adding at the end the fol-
23 lowing new paragraph:

24 “(4) PROFESSIONAL STADIUM BOND.—Any pro-
25 fessional stadium bond.”.

1 (b) PROFESSIONAL STADIUM BOND DEFINED.—Sub-
 2 section (c) of section 103 is amended by adding at the
 3 end the following new paragraph:

4 “(3) PROFESSIONAL STADIUM BOND.—The
 5 term ‘professional stadium bond’ means any bond
 6 issued as part of an issue any proceeds of which are
 7 used to finance or refinance capital expenditures al-
 8 locable to a facility (or appurtenant real property)
 9 which, during at least 5 days during any calendar
 10 year, is used as a stadium or arena for professional
 11 sports exhibitions, games, or training.”.

12 (c) EFFECTIVE DATE.—The amendments made by
 13 this section shall apply to bonds issued after November
 14 2, 2017.

15 **Subtitle H—Insurance**

16 **SEC. 3701. NET OPERATING LOSSES OF LIFE INSURANCE** 17 **COMPANIES.**

18 (a) IN GENERAL.—Section 805(b) is amended by
 19 striking paragraph (4) and by redesignating paragraph
 20 (5) as paragraph (4).

21 (b) CONFORMING AMENDMENTS.—

22 (1) Part I of subchapter L of chapter 1 is
 23 amended by striking section 810 (and by striking
 24 the item relating to such section in the table of sec-
 25 tions for such part).

1 (2) Part III of subchapter L of chapter 1 is
2 amended by striking section 844 (and by striking
3 the item relating to such section in the table of sec-
4 tions for such part).

5 (3) Section 381 is amended by striking sub-
6 section (d).

7 (4) Section 805(a)(4)(B)(ii) is amended to read
8 as follows:

9 “(ii) the deduction allowed under sec-
10 tion 172.”.

11 (5) Section 805(a) is amended by striking para-
12 graph (5).

13 (6) Section 953(b)(1)(B) is amended to read as
14 follows:

15 “(B) So much of section 805(a)(8) as re-
16 lates to the deduction allowed under section
17 172.”.

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to losses arising in taxable years
20 beginning after December 31, 2017.

21 **SEC. 3702. REPEAL OF SMALL LIFE INSURANCE COMPANY**
22 **DEDUCTION.**

23 (a) IN GENERAL.—Part I of subchapter L of chapter
24 1 is amended by striking section 806 (and by striking the

1 item relating to such section in the table of sections for
2 such part).

3 (b) CONFORMING AMENDMENTS.—

4 (1) Section 453B(e) is amended—

5 (A) by striking “(as defined in section
6 806(b)(3))” in paragraph (2)(B), and

7 (B) by adding at the end the following new
8 paragraph:

9 “(3) NONINSURANCE BUSINESS.—

10 “(A) IN GENERAL.—For purposes of this
11 subsection, the term ‘noninsurance business’
12 means any activity which is not an insurance
13 business.

14 “(B) CERTAIN ACTIVITIES TREATED AS IN-
15 SURANCE BUSINESSES.—For purposes of sub-
16 paragraph (A), any activity which is not an in-
17 surance business shall be treated as an insur-
18 ance business if—

19 “(i) it is of a type traditionally carried
20 on by life insurance companies for invest-
21 ment purposes, but only if the carrying on
22 of such activity (other than in the case of
23 real estate) does not constitute the active
24 conduct of a trade or business, or

1 “(ii) it involves the performance of ad-
2 ministrative services in connection with
3 plans providing life insurance, pension, or
4 accident and health benefits.”.

5 (2) Section 465(c)(7)(D)(v)(II) is amended by
6 striking “section 806(b)(3)” and inserting “section
7 453B(e)(3)”.

8 (3) Section 801(a)(2) is amended by striking
9 subparagraph (C).

10 (4) Section 804 is amended by striking
11 “means—” and all that follows and inserting
12 “means the general deductions provided in section
13 805.”.

14 (5) Section 805(a)(4)(B), as amended by sec-
15 tion 3701, is amended by striking clause (i) and by
16 redesignating clauses (ii), (iii), and (iv) as clauses
17 (i), (ii), and (iii), respectively.

18 (6) Section 805(b)(2)(A) is amended by strik-
19 ing clause (iii) and by redesignating clauses (iv) and
20 (v) as clauses (iii) and (iv), respectively.

21 (7) Section 842(c) is amended by striking para-
22 graph (1) and by redesignating paragraphs (2) and
23 (3) as paragraphs (1) and (2), respectively.

24 (8) Section 953(b)(1), as amended by section
25 3701, is amended by striking subparagraph (A) and

1 by redesignating subparagraphs (B) and (C) as sub-
2 paragraphs (A) and (B), respectively.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years beginning after
5 December 31, 2017.

6 **SEC. 3703. COMPUTATION OF LIFE INSURANCE TAX RE-**
7 **SERVES.**

8 (a) IN GENERAL.—Section 807 is amended by strik-
9 ing subsections (c), (d), and (e) and inserting the following
10 new subsections:

11 “(c) ITEMS DESCRIBED.—The items described in this
12 subsection are the reserves for future unaccrued claims
13 defined in subsection (e) as determined by applying the
14 method of computing the reserves in subsection (d).

15 “(d) METHOD OF COMPUTING RESERVES FOR PUR-
16 POSES OF DETERMINING INCOME.—For purposes of this
17 part (other than section 816), the amount of the reserves
18 for future unaccrued claims shall be 76.5 percent of the
19 amount of such reserves as defined in subsection (e).

20 “(e) DEFINITIONS AND SPECIAL RULES.—For pur-
21 poses of this section—

22 “(1) RESERVES FOR FUTURE UNACCRUED
23 CLAIMS.—The term ‘reserves for future unaccrued
24 claims’ means—

1 “(A) life insurance reserves (as defined in
2 section 816(b)) determined in accordance with
3 the method prescribed by the National Associa-
4 tion of Insurance Commissioners and reported
5 by the taxpayer on its annual statement for the
6 calendar year that is the taxable year,

7 “(B) unpaid losses included in total re-
8 serves under section 816(c)(2), and

9 “(C) the amount (not included in subpara-
10 graph (A) or (B)) of reserves solely for claims
11 with respect to insurance risks which are deter-
12 mined in accordance with the method prescribed
13 by the National Association of Insurance Com-
14 missioners and reported by the taxpayer on its
15 annual statement for the calendar year that is
16 the taxable year,

17 but not including any amount of asset adequacy re-
18 serves, contingency reserves, unearned premium re-
19 serves, or any other amount not constituting re-
20 serves for future unaccrued claims as provided in
21 guidance by the Secretary. For purposes of subpara-
22 graph (B) and section 805(a)(1), the amount of the
23 unpaid losses (other than losses on life insurance
24 contracts) shall be the amount of the discounted un-
25 paid losses as defined in section 846.

1 “(2) REPORTING RULES.—The Secretary shall
2 require reporting (at such time and in such manner
3 as the Secretary shall prescribe) with respect to the
4 opening balance and closing balance of reserves and
5 with respect to the method of computing reserves for
6 purposes of determining income.”.

7 (b) CONFORMING AMENDMENTS.—

8 (1) Section 808 is amended by adding at the
9 end the following new subsection:

10 “(g) PREVAILING STATE ASSUMED INTEREST
11 RATE.—For purposes of this subchapter—

12 “(1) IN GENERAL.—The term ‘prevailing State
13 assumed interest rate’ means, with respect to any
14 contract, the highest assumed interest rate per-
15 mitted to be used in computing life insurance re-
16 serves for insurance contracts or annuity contracts
17 (as the case may be) under the insurance laws of at
18 least 26 States. For purposes of the preceding sen-
19 tence, the effect of nonforfeiture laws of a State on
20 interest rates for reserves shall not be taken into ac-
21 count.

22 “(2) WHEN RATE DETERMINED.—The pre-
23 vailing State assumed interest rate with respect to
24 any contract shall be determined as of the beginning

1 of the calendar year in which the contract was
2 issued.”.

3 (2) Paragraph (1) of section 811(d) is amended
4 by striking “the greater of the prevailing State as-
5 sumed interest rate or applicable Federal interest
6 rate in effect under section 807” and inserting “the
7 interest rate in effect under section 808(g)”.

8 (3) Subparagraph (A) of section 846(f)(6) is
9 amended by striking “except that” and all that fol-
10 lows and inserting “except that the limitation of
11 subsection (a)(3) shall apply, and”.

12 (4) Subparagraph (B) of section 954(i)(5) is
13 amended by striking “shall apply, and”.

14 (c) EFFECTIVE DATE.—

15 (1) IN GENERAL.—The amendments made by
16 this section shall apply to taxable years beginning
17 after December 31, 2017.

18 (2) TRANSITION RULE.—For the first taxable
19 year beginning after December 31, 2017, the reserve
20 with respect to any contract (as determined under
21 section 807(d)(2) of the Internal Revenue Code of
22 1986) at the end of the preceding taxable year shall
23 be determined as if the amendments made by this
24 section had applied to such reserve in such preceding
25 taxable year.

1 (3) TRANSITION RELIEF.—

2 (A) IN GENERAL.—If—

3 (i) the reserve determined under sec-
4 tion 807(d)(2) of the Internal Revenue
5 Code of 1986 (determined without regard
6 to the amendments made by this section)
7 with respect to any contract as of the close
8 of the year preceding the first taxable year
9 beginning after December 31, 2017, differs
10 from

11 (ii) the reserve which would have been
12 determined with respect to such contract
13 as of the close of such taxable year under
14 such section determined without regard to
15 paragraph (2),

16 then the difference between the amount of the
17 reserve described in clause (i) and the amount
18 of the reserve described in clause (ii) shall be
19 taken into account under the method provided
20 in subparagraph (B).

21 (B) METHOD.—The method provided in
22 this subparagraph is as follows:

23 (i) if the amount determined under
24 subparagraph (A)(i) exceeds the amount
25 determined under subparagraph (A)(ii), $\frac{1}{8}$

1 of such excess shall be taken into account,
2 for each of the 8 succeeding taxable years,
3 as a deduction under section 805(a)(2) of
4 such Code, or

5 (ii) if the amount determined under
6 subparagraph (A)(ii) exceeds the amount
7 determined under subparagraph (A)(i), $\frac{1}{8}$
8 of such excess shall be included in gross in-
9 come, for each of the 8 succeeding taxable
10 years, under section 803(a)(2) of such
11 Code.

12 **SEC. 3704. ADJUSTMENT FOR CHANGE IN COMPUTING RE-**
13 **SERVES.**

14 (a) IN GENERAL.—Paragraph (1) of section 807(f)
15 is amended to read as follows:

16 “(1) TREATMENT AS CHANGE IN METHOD OF
17 ACCOUNTING.—If the basis for determining any item
18 referred to in subsection (c) as of the close of any
19 taxable year differs from the basis for such deter-
20 mination as of the close of the preceding taxable
21 year, then so much of the difference between—

22 “(A) the amount of the item at the close
23 of the taxable year, computed on the new basis,
24 and

1 spect to any taxable year beginning after December 31,
2 2017, 60 percent.”.

3 (b) CONFORMING AMENDMENT.—Section 817A(e)(2)
4 is amended by striking “, 807(d)(2)(B), and 812” and in-
5 serting “and 807(d)(2)(B)”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to taxable years beginning after
8 December 31, 2017.

9 **SEC. 3706. REPEAL OF SPECIAL RULE FOR DISTRIBUTIONS**
10 **TO SHAREHOLDERS FROM PRE-1984 POLICY-**
11 **HOLDERS SURPLUS ACCOUNT.**

12 (a) IN GENERAL.—Subpart D of part I of subchapter
13 L is amended by striking section 815 (and by striking the
14 item relating to such section in the table of sections for
15 such subpart).

16 (b) CONFORMING AMENDMENT.—Section 801 is
17 amended by striking subsection (e).

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to taxable years beginning after
20 December 31, 2017.

21 (d) PHASED INCLUSION OF REMAINING BALANCE OF
22 POLICYHOLDERS SURPLUS ACCOUNTS.—In the case of
23 any stock life insurance company which has a balance (de-
24 termined as of the close of such company’s last taxable
25 year beginning before January 1, 2018) in an existing pol-

1 icyholders surplus account (as defined in section 815 of
2 the Internal Revenue Code of 1986, as in effect before
3 its repeal), the tax imposed by section 801 of such Code
4 for the first 8 taxable years beginning after December 31,
5 2017, shall be the amount which would be imposed by
6 such section for such year on the sum of—

7 (1) life insurance company taxable income for
8 such year (within the meaning of such section 801
9 but not less than zero), plus

10 (2) $\frac{1}{8}$ of such balance.

11 **SEC. 3707. MODIFICATION OF PRORATION RULES FOR**
12 **PROPERTY AND CASUALTY INSURANCE COM-**
13 **PANIES.**

14 (a) IN GENERAL.—Section 832(b)(5)(B) is amended
15 by striking “15 percent” and inserting “26.25 percent”.

16 (b) EFFECTIVE DATE.—The amendment made by
17 this section shall apply to taxable years beginning after
18 December 31, 2017.

19 **SEC. 3708. MODIFICATION OF DISCOUNTING RULES FOR**
20 **PROPERTY AND CASUALTY INSURANCE COM-**
21 **PANIES.**

22 (a) MODIFICATION OF RATE OF INTEREST USED TO
23 DISCOUNT UNPAID LOSSES.—Paragraph (2) of section
24 846(c) is amended to read as follows:

1 “(2) DETERMINATION OF ANNUAL RATE.—The
2 annual rate determined by the Secretary under this
3 paragraph for any calendar year shall be a rate de-
4 termined on the basis of the corporate bond yield
5 curve (as defined in section 430(h)(2)(D)(i)).”.

6 (b) MODIFICATION OF COMPUTATIONAL RULES FOR
7 LOSS PAYMENT PATTERNS.—Section 846(d)(3) is amend-
8 ed by striking subparagraphs (B) through (G) and insert-
9 ing the following new subparagraphs:

10 “(B) TREATMENT OF CERTAIN LOSSES.—
11 Losses which would have been treated as paid
12 in the last year of the period applicable under
13 subparagraph (A)(i) or (A)(ii) shall be treated
14 as paid in the following manner:

15 “(i) 3-YEAR LOSS PAYMENT PAT-
16 TERN.—

17 “(I) IN GENERAL.—The period
18 taken into account under subpara-
19 graph (A)(i) shall be extended to the
20 extent required under subclause (II).

21 “(II) COMPUTATION OF EXTEN-
22 SION.—The amount of losses which
23 would have been treated as paid in the
24 3d year after the accident year shall
25 be treated as paid in such 3d year

1 and each subsequent year in an
2 amount equal to the average of the
3 losses treated as paid in the 1st and
4 2d years after the accident year (or, if
5 lesser, the portion of the unpaid losses
6 not theretofore taken into account).
7 To the extent such unpaid losses have
8 not been treated as paid before the
9 18th year after the accident year, they
10 shall be treated as paid in such 18th
11 year.

12 “(ii) 10-YEAR LOSS PAYMENT PAT-
13 TERN.—

14 “(I) IN GENERAL.—The period
15 taken into account under subpara-
16 graph (A)(ii) shall be extended to the
17 extent required under subclause (II).

18 “(II) COMPUTATION OF EXTEN-
19 SION.—The amount of losses which
20 would have been treated as paid in the
21 10th year after the accident year shall
22 be treated as paid in such 10th year
23 and each subsequent year in an
24 amount equal to the amount of the
25 average of the losses treated as paid

1 in the 7th, 8th, and 9th years after
2 the accident year (or, if lesser, the
3 portion of the unpaid losses not there-
4 tofore taken into account). To the ex-
5 tent such unpaid losses have not been
6 treated as paid before the 25th year
7 after the accident year, they shall be
8 treated as paid in such 25th year.”.

9 (c) REPEAL OF HISTORICAL PAYMENT PATTERN
10 ELECTION.—Section 846 is amended by striking sub-
11 section (e) and by redesignating subsections (f) and (g)
12 as subsections (e) and (f), respectively.

13 (d) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to taxable years beginning after
15 December 31, 2017.

16 (e) TRANSITIONAL RULE.—For the first taxable year
17 beginning after December 31, 2017—

18 (1) the unpaid losses and the expenses unpaid
19 (as defined in paragraphs (5)(B) and (6) of section
20 832(b) of the Internal Revenue Code of 1986) at the
21 end of the preceding taxable year, and

22 (2) the unpaid losses as defined in sections
23 807(c)(2) and 805(a)(1) of such Code at the end of
24 the preceding taxable year,

1 shall be determined as if the amendments made by this
2 section had applied to such unpaid losses and expenses
3 unpaid in the preceding taxable year and by using the in-
4 terest rate and loss payment patterns applicable to acci-
5 dent years ending with calendar year 2018, and any ad-
6 justment shall be taken into account ratably in such first
7 taxable year and the 7 succeeding taxable years. For sub-
8 sequent taxable years, such amendments shall be applied
9 with respect to such unpaid losses and expenses unpaid
10 by using the interest rate and loss payment patterns appli-
11 cable to accident years ending with calendar year 2018.

12 **SEC. 3709. REPEAL OF SPECIAL ESTIMATED TAX PAY-**
13 **MENTS.**

14 (a) IN GENERAL.—Part III of subchapter L of chap-
15 ter 1 is amended by striking section 847 (and by striking
16 the item relating to such section in the table of sections
17 for such part).

18 (b) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to taxable years beginning after
20 December 31, 2017.

21 **SEC. 3710. CAPITALIZATION OF CERTAIN POLICY ACQUISI-**
22 **TION EXPENSES.**

23 (a) IN GENERAL.—Paragraph (1) of section 848(c)
24 is amended by striking subparagraphs (A), (B), and (C)
25 and inserting the following new subparagraphs:

1 “(A) 4 percent of the net premiums for
2 such taxable year on specified insurance con-
3 tracts which are group contracts, and

4 “(B) 11 percent of the net premiums for
5 such taxable year on specified insurance con-
6 tracts not described in subparagraph (A).”.

7 (b) GROUP CONTRACTS.—So much of paragraph (2)
8 of section 848(e) as precedes subparagraph (A) thereof is
9 amended to read as follows:

10 “(2) GROUP CONTRACT.—The term ‘group con-
11 tract’ means any specified insurance contract—”.

12 (c) CONFORMING AMENDMENTS.—Section 848(e) is
13 amended by striking paragraphs (3) and (6) and by redес-
14 ignating paragraphs (4) and (5) as paragraphs (3) and
15 (4), respectively.

16 (d) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to taxable years beginning after
18 December 31, 2017.

19 **Subtitle I—Compensation**

20 **SEC. 3801. NONQUALIFIED DEFERRED COMPENSATION.**

21 (a) IN GENERAL.—Subpart A of part I of subchapter
22 D of chapter 1 is amended by adding at the end the fol-
23 lowing new section:

1 **“SEC. 409B. NONQUALIFIED DEFERRED COMPENSATION.**

2 “(a) IN GENERAL.—Any compensation which is de-
3 ferred under a nonqualified deferred compensation plan
4 shall be includible in the gross income of the person who
5 performed the services to which such compensation relates
6 when there is no substantial risk of forfeiture of the rights
7 of such person to such compensation.

8 “(b) DEFINITIONS.—For purposes of this section—

9 “(1) SUBSTANTIAL RISK OF FORFEITURE.—The
10 rights of a person to compensation shall be treated
11 as subject to a substantial risk of forfeiture only if
12 such person’s rights to such compensation are condi-
13 tioned upon the future performance of substantial
14 services by any person. Such rights shall not be
15 treated as subject to a substantial risk of forfeiture
16 solely by reason of a covenant not to compete or the
17 occurrence of a condition related to a purpose of the
18 compensation other than the future performance of
19 services.

20 “(2) NONQUALIFIED DEFERRED COMPENSA-
21 TION PLAN.—For purposes of this section:

22 “(A) NONQUALIFIED DEFERRED COM-
23 PENSATION PLAN.—The term ‘nonqualified de-
24 ferred compensation plan’ means any plan that
25 provides for the deferral of compensation, other
26 than—

1 “(i) a qualified employer plan,

2 “(ii) any bona fide vacation leave, sick
3 leave, compensatory time, disability pay, or
4 death benefit plan, and

5 “(iii) any other plan or arrangement
6 designated by the Secretary consistent with
7 the purposes of this section.

8 “(B) EQUITY-BASED COMPENSATION.—
9 The term ‘nonqualified deferred compensation
10 plan’ shall include any plan that provides—

11 “(i) a right to compensation based on
12 the value of, or appreciation in value of, a
13 specified number of equity units of the
14 service recipient, whether paid in cash or
15 equity, or

16 “(ii) stock appreciation rights or stock
17 options.

18 Such term shall not include that portion of any
19 plan which consists of a transfer of property de-
20 scribed in section 83 (other than stock options)
21 or which consists of a trust to which section
22 402(b) applies.

23 “(3) QUALIFIED EMPLOYER PLAN.—The term
24 ‘qualified employer plan’ means any plan, contract,
25 pension, account, or trust described in section

1 408(p)(2)(D)(ii) or a simple retirement account
2 (within the meaning of section 408(p)).

3 “(4) PLAN INCLUDES ARRANGEMENTS, ETC.—
4 The term ‘plan’ includes any agreement or arrange-
5 ment, including an agreement or arrangement that
6 includes one person.

7 “(5) EXCEPTION.—Compensation shall not be
8 treated as deferred for purposes of this section if the
9 service provider receives payment of such compensa-
10 tion not later than 2 ½ months after the end of the
11 taxable year of the service recipient during which the
12 right to the payment of such compensation is no
13 longer subject to a substantial risk of forfeiture.

14 “(6) TREATMENT OF EARNINGS.—References to
15 deferred compensation shall be treated as including
16 references to income (whether actual or notional) at-
17 tributable to such compensation or such income.

18 “(7) AGGREGATION RULES.—Except as pro-
19 vided by the Secretary, rules similar to the rules of
20 subsections (b) and (c) of section 414 shall apply.

21 “(c) NO INFERENCE ON EARLIER INCOME INCLU-
22 SION OR REQUIREMENT OF LATER INCLUSION.—Nothing
23 in this section shall be construed to prevent the inclusion
24 of amounts in gross income under any other provision of
25 this chapter or any other rule of law earlier than the time

1 provided in this section. Any amount included in gross in-
2 come under this section shall not be required to be in-
3 cluded in gross income under any other provision of this
4 chapter or any other rule of law later than the time pro-
5 vided in this section.

6 “(d) APPLICATION TO EXISTING DEFERRALS.—In
7 the case of any amount deferred to which this section does
8 not otherwise apply solely by reason of the fact that the
9 amount is attributable to services performed before Janu-
10 ary 1, 2018, to the extent such amount is not includible
11 in gross income in a taxable year beginning before 2026,
12 such amounts shall be includible in gross income in the
13 later of—

14 “(1) the last taxable year beginning before
15 2026, or

16 “(2) the taxable year in which there is no sub-
17 stantial risk of forfeiture of the rights to such com-
18 pensation.

19 “(e) REGULATIONS.—The Secretary shall prescribe
20 such regulations as may be necessary or appropriate to
21 carry out the purposes of this section, including regula-
22 tions disregarding a substantial risk of forfeiture in cases
23 where necessary to carry out the purposes of this sec-
24 tion.”.

1 (b) REPORTING AND WITHHOLDING REQUIRE-
2 MENTS.—

3 (1) WAGE WITHHOLDING.—The flush sentence
4 at the end of section 3401(a) is amended by insert-
5 ing “or 409B” after “409A”.

6 (2) WITHHOLDING OF TAX ON NONRESIDENT
7 ALIENS.—Section 1441(c)(4) is amended by insert-
8 ing “(other than under a nonqualified deferred com-
9 pensation plan (within the meaning of section
10 409B(b))” after “compensation for personal serv-
11 ices”.

12 (3) INFORMATION REPORTING.—Section
13 6041(g) is amended—

14 (A) by inserting “or 409B(b)” after
15 “409A(d)” in paragraph (1), and

16 (B) by inserting “or 409B” after “409A”
17 in paragraph (2).

18 (4) RECEIPTS FOR EMPLOYEES.—Section
19 6051(a)(13), as amended by the preceding provi-
20 sions of this Act, is amended by inserting “or
21 409B(b)” after “409A(d)”.

22 (c) TERMINATION OF CERTAIN OTHER NON-
23 QUALIFIED DEFERRED COMPENSATION RULES.—

24 (1) NONQUALIFIED DEFERRED COMPENSA-
25 TION.—

1 (A) IN GENERAL.—Subpart A of part I of
2 subchapter D of chapter 1 is amended by strik-
3 ing section 409A (and by striking the item re-
4 lating to such section in the table of sections
5 for such subpart).

6 (B) CONFORMING AMENDMENT.—Section
7 26(b)(2) is amended by striking subparagraph
8 (V).

9 (2) 457(b) PLANS OF TAX EXEMPT ORGANIZA-
10 TIONS.—Section 457 is amended by adding at the
11 end the following new subsection:

12 “(h) TERMINATION OF CERTAIN PLANS.—

13 “(1) TAX-EXEMPT ORGANIZATION PLANS.—
14 This section shall not apply to amounts deferred
15 which are attributable to services performed after
16 December 31, 2017, under a plan maintained by an
17 employer described in subsection (e)(1)(B).

18 “(2) INELIGIBLE DEFERRED COMPENSATION
19 PLANS.—Subsection (f) shall not apply to amounts
20 deferred which are attributable to services performed
21 after December 31, 2017.”.

22 (3) NONQUALIFIED DEFERRED COMPENSATION
23 FROM CERTAIN TAX INDIFFERENT PARTIES.—

24 (A) IN GENERAL.—Subpart B of part II of
25 subchapter E of chapter 1 is amended by strik-

1 ing section 457A (and by striking the item re-
2 lating to such section in the table of sections
3 for such subpart).

4 (B) CONFORMING AMENDMENT.—Section
5 26(b)(2) is amended by striking subparagraph
6 (X).

7 (d) CLERICAL AMENDMENT.—The table of sections
8 for part I of subchapter D of chapter 1 is amended by
9 adding at the end the following new item:

 “Sec. 409B. Nonqualified deferred compensation.”.

10 (e) EFFECTIVE DATE.—

11 (1) IN GENERAL.—Except as otherwise pro-
12 vided in this subsection and section 409B(d) of the
13 Internal Revenue Code of 1986 (as added by this
14 Act), the amendments made by this section shall
15 apply to amounts which are attributable to services
16 performed after December 31, 2017.

17 (2) ACCELERATED PAYMENTS.—No later than
18 120 days after the date of the enactment of this Act,
19 the Secretary shall issue guidance providing a lim-
20 ited period of time during which a nonqualified de-
21 ferred compensation arrangement attributable to
22 services performed on or before December 31, 2017,
23 may, without violating the requirements of section
24 409A of the Internal Revenue Code of 1986, be
25 amended to conform the date of distribution to the

1 date the amounts are required to be included in in-
2 come.

3 (3) CERTAIN BACK-TO-BACK ARRANGEMENTS.—

4 If the taxpayer is also a service recipient and main-
5 tains one or more nonqualified deferred compensa-
6 tion arrangements for its service providers under
7 which any amount is attributable to services per-
8 formed on or before December 31, 2017, the guid-
9 ance issued under paragraph (3) shall permit such
10 arrangements to be amended to conform the dates of
11 distribution under such arrangement to the date
12 amounts are required to be included in the income
13 of such taxpayer under this subsection.

14 (4) ACCELERATED PAYMENT NOT TREATED AS
15 MATERIAL MODIFICATION.—Any amendment to a
16 nonqualified deferred compensation arrangement
17 made pursuant to paragraph (3) or (4) shall not be
18 treated as a material modification of the arrange-
19 ment for purposes of section 409A of the Internal
20 Revenue Code of 1986.

21 **SEC. 3802. MODIFICATION OF LIMITATION ON EXCESSIVE**
22 **EMPLOYEE REMUNERATION.**

23 (a) REPEAL OF PERFORMANCE-BASED COMPENSA-
24 TION AND COMMISSION EXCEPTIONS FOR LIMITATION ON
25 EXCESSIVE EMPLOYEE REMUNERATION.—

1 (1) IN GENERAL.—Section 162(m)(4) is amend-
2 ed by striking subparagraphs (B) and (C) and by re-
3 designating subparagraphs (D), (E), (F), and (G) as
4 subparagraphs (B), (C), (D), and (E), respectively.

5 (2) CONFORMING AMENDMENTS.—

6 (A) Paragraphs (5)(E) and (6)(D) of sec-
7 tion 162(m) are each amended by striking
8 “subparagraphs (B), (C), and (D)” and insert-
9 ing “subparagraph (B)”.

10 (B) Paragraphs (5)(G) and (6)(G) of sec-
11 tion 162(m) are each amended by striking “(F)
12 and (G)” and inserting “(D) and (E)”.

13 (b) EXPANSION OF APPLICABLE EMPLOYER.—Sec-
14 tion 162(m)(2) is amended to read as follows:

15 “(2) PUBLICLY HELD CORPORATION.—For pur-
16 poses of this subsection, the term ‘publicly held cor-
17 poration’ means any corporation which is an issuer
18 (as defined in section 3 of the Securities Exchange
19 Act of 1934 (15 U.S.C. 78c))—

20 “(A) the securities of which are required to
21 be registered under section 12 of such Act (15
22 U.S.C. 78l), or

23 “(B) that is required to file reports under
24 section 15(d) of such Act (15 U.S.C. 78o(d)).”.

1 (c) MODIFICATION OF DEFINITION OF COVERED EM-
2 PLOYEES.—Section 162(m)(3) is amended—

3 (1) in subparagraph (A), by striking “as of the
4 close of the taxable year, such employee is the chief
5 executive officer of the taxpayer or is” and inserting
6 “such employee is the principal executive officer or
7 principal financial officer of the taxpayer at any
8 time during the taxable year, or was”,

9 (2) in subparagraph (B)—

10 (A) by striking “4” and inserting “3”, and

11 (B) by striking “(other than the chief execu-
12 tive officer)” and inserting “(other than the
13 principal executive officer)”, and

14 (3) by striking “or” at the end of subparagraph
15 (A), by striking the period at the end of subpara-
16 graph (B) and inserting “, or”, and by adding at the
17 end the following:

18 “(C) was a covered employee of the tax-
19 payer (or any predecessor) for any preceding
20 taxable year beginning after December 31,
21 2016.

22 Such term shall include any employee who would be
23 described in subparagraph (B) if the reporting de-
24 scribed in such subparagraph were required as so
25 described.”.

1 (d) SPECIAL RULE FOR REMUNERATION PAID TO
 2 BENEFICIARIES, ETC.—Section 162(m)(4), as amended by
 3 subsection (a), is amended by adding at the end the fol-
 4 lowing new subparagraph:

5 “(F) SPECIAL RULE FOR REMUNERATION
 6 PAID TO BENEFICIARIES, ETC.—Remuneration
 7 shall not fail to be applicable employee remun-
 8 eration merely because it is includible in the
 9 income of, or paid to, a person other than the
 10 covered employee, including after the death of
 11 the covered employee.”.

12 (e) EFFECTIVE DATE.—The amendments made by
 13 this section shall apply to taxable years beginning after
 14 December 31, 2017.

15 **SEC. 3803. EXCISE TAX ON EXCESS TAX-EXEMPT ORGANIZA-**
 16 **TION EXECUTIVE COMPENSATION.**

17 (a) IN GENERAL.—Subchapter D of chapter 42 is
 18 amended by adding at the end the following new section:

19 **“SEC. 4960. TAX ON EXCESS TAX-EXEMPT ORGANIZATION**
 20 **EXECUTIVE COMPENSATION.**

21 “(a) TAX IMPOSED.—There is hereby imposed a tax
 22 equal to 20 percent of the sum of—

23 “(1) so much of the remuneration paid (other
 24 than any excess parachute payment) by an applica-
 25 ble tax-exempt organization for the taxable year with

1 respect to employment of any covered employee in
2 excess of \$1,000,000, plus

3 “(2) any excess parachute payment paid by
4 such an organization to any covered employee.

5 “(b) LIABILITY FOR TAX.—The employer shall be lia-
6 ble for the tax imposed under subsection (a).

7 “(c) DEFINITIONS AND SPECIAL RULES.—For pur-
8 poses of this section—

9 “(1) APPLICABLE TAX-EXEMPT ORGANIZA-
10 TION.—The term ‘applicable tax-exempt organiza-
11 tion’ means any organization that for the taxable
12 year—

13 “(A) is exempt from taxation under section
14 501(a),

15 “(B) is a farmers’ cooperative organization
16 described in section 521(b)(1),

17 “(C) has income excluded from taxation
18 under section 115(1), or

19 “(D) is a political organization described in
20 section 527(e)(1).

21 “(2) COVERED EMPLOYEE.—For purposes of
22 this section, the term ‘covered employee’ means any
23 employee (including any former employee) of an ap-
24 plicable tax-exempt organization if the employee—

1 “(A) is one of the 5 highest compensated
2 employees of the organization for the taxable
3 year, or

4 “(B) was a covered employee of the organi-
5 zation (or any predecessor) for any preceding
6 taxable year beginning after December 31,
7 2016.

8 “(3) REMUNERATION.—For purposes of this
9 section, the term ‘remuneration’ means wages (as
10 defined in section 3401(a)), except that such term
11 shall not include any designated Roth contribution
12 (as defined in section 402A(c)).

13 “(4) REMUNERATION FROM RELATED ORGANI-
14 ZATIONS.—

15 “(A) IN GENERAL.—Remuneration of a
16 covered employee paid by an applicable tax-ex-
17 empt organization shall include any remunera-
18 tion paid with respect to employment of such
19 employee by any related person or governmental
20 entity.

21 “(B) RELATED ORGANIZATIONS.—A per-
22 son or governmental entity shall be treated as
23 related to an applicable tax-exempt organization
24 if such person or governmental entity—

1 “(i) controls, or is controlled by, the
2 organization,

3 “(ii) is controlled by one or more per-
4 sons that control the organization,

5 “(iii) is a supported organization (as
6 defined in section 509(f)(2)) during the
7 taxable year with respect to the organiza-
8 tion,

9 “(iv) is a supporting organization de-
10 scribed in section 509(a)(3) during the
11 taxable year with respect to the organiza-
12 tion, or

13 “(v) in the case of an organization
14 that is a voluntary employees’ beneficiary
15 association described in section 501(a)(9),
16 establishes, maintains, or makes contribu-
17 tions to such voluntary employees’ bene-
18 ficiary association.

19 “(C) LIABILITY FOR TAX.—In any case in
20 which remuneration from more than one em-
21 ployer is taken into account under this para-
22 graph in determining the tax imposed by sub-
23 section (a), each such employer shall be liable
24 for such tax in an amount which bears the
25 same ratio to the total tax determined under

1 subsection (a) with respect to such remunera-
2 tion as—

3 “(i) the amount of remuneration paid
4 by such employer with respect to such em-
5 ployee, bears to

6 “(ii) the amount of remuneration paid
7 by all such employers to such employee.

8 “(5) EXCESS PARACHUTE PAYMENT.—For pur-
9 poses determining the tax imposed by subsection
10 (a)(2)—

11 “(A) IN GENERAL.—The term ‘excess
12 parachute payment’ means an amount equal to
13 the excess of any parachute payment over the
14 portion of the base amount allocated to such
15 payment.

16 “(B) PARACHUTE PAYMENT.—The term
17 ‘parachute payment’ means any payment in the
18 nature of compensation to (or for the benefit
19 of) a covered employee if—

20 “(i) such payment is contingent on
21 such employee’s separation from employ-
22 ment with the employer, and

23 “(ii) the aggregate present value of
24 the payments in the nature of compensa-
25 tion to (or for the benefit of) such indi-

1 vidual which are contingent on such sepa-
2 ration equals or exceeds an amount equal
3 to 3 times the base amount.

4 Such term does not include any payment de-
5 scribed in section 280G(b)(6) (relating to ex-
6 emption for payments under qualified plans) or
7 any payment made under or to an annuity con-
8 tract described in section 403(b) or a plan de-
9 scribed in section 457(b).

10 “(C) BASE AMOUNT.—Rules similar to the
11 rules of 280G(b)(3) shall apply for purposes of
12 determining the base amount.

13 “(D) PROPERTY TRANSFERS; PRESENT
14 VALUE.—Rules similar to the rules of para-
15 graphs (3) and (4) of section 280G(d) shall
16 apply.

17 “(6) COORDINATION WITH DEDUCTION LIMITA-
18 TION.—Remuneration the deduction for which is not
19 allowed by reason of section 162(m) shall not be
20 taken into account for purposes of this section.

21 “(d) REGULATIONS.—The Secretary shall prescribe
22 such regulations as may be necessary to prevent avoidance
23 of the purposes of this section through the performance
24 of services other than as an employee.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
 2 for subchapter D of chapter 42 is amended by adding at
 3 the end the following new item:

“Sec. 4960. Tax on excess exempt organization executive compensation.”.

4 (c) EFFECTIVE DATE.—The amendments made by
 5 this section shall apply to taxable years beginning after
 6 December 31, 2017.

7 **TITLE IV—TAXATION OF FOR-**
 8 **EIGN INCOME AND FOREIGN**
 9 **PERSONS**

10 **Subtitle A—Establishment of Par-**
 11 **ticipation Exemption System for**
 12 **Taxation of Foreign Income**

13 **SEC. 4001. DEDUCTION FOR FOREIGN-SOURCE PORTION OF**
 14 **DIVIDENDS RECEIVED BY DOMESTIC COR-**
 15 **PORATIONS FROM SPECIFIED 10-PERCENT**
 16 **OWNED FOREIGN CORPORATIONS.**

17 (a) IN GENERAL.—Part VIII of subchapter B of
 18 chapter 1 is amended by inserting after section 245 the
 19 following new section:

20 **“SEC. 245A. DEDUCTION FOR FOREIGN-SOURCE PORTION**
 21 **OF DIVIDENDS RECEIVED BY DOMESTIC COR-**
 22 **PORATIONS FROM SPECIFIED 10-PERCENT**
 23 **OWNED FOREIGN CORPORATIONS.**

24 “(a) IN GENERAL.—In the case of any dividend re-
 25 ceived from a specified 10-percent owned foreign corpora-

1 tion by a domestic corporation which is a United States
2 shareholder with respect to such foreign corporation, there
3 shall be allowed as a deduction an amount equal to the
4 foreign-source portion of such dividend.

5 “(b) SPECIFIED 10-PERCENT OWNED FOREIGN COR-
6 PORATION.—For purposes of this section, the term ‘speci-
7 fied 10-percent owned foreign corporation’ means any for-
8 eign corporation with respect to which any domestic cor-
9 poration is a United States shareholder. Such term shall
10 not include any passive foreign investment company (with-
11 in the meaning of subpart D of part VI of subchapter P)
12 that is not a controlled foreign corporation.

13 “(c) FOREIGN-SOURCE PORTION.—For purposes of
14 this section—

15 “(1) IN GENERAL.—The foreign-source portion
16 of any dividend is an amount which bears the same
17 ratio to such dividend as—

18 “(A) the post-1986 undistributed foreign
19 earnings of the specified 10-percent owned for-
20 eign corporation, bears to

21 “(B) the total post-1986 undistributed
22 earnings of such foreign corporation.

23 “(2) POST-1986 UNDISTRIBUTED EARNINGS.—
24 The term ‘post-1986 undistributed earnings’ means
25 the amount of the earnings and profits of the speci-

1 fied 10-percent owned foreign corporation (computed
2 in accordance with sections 964(a) and 986) accu-
3 mulated in taxable years beginning after December
4 31, 1986—

5 “(A) as of the close of the taxable year of
6 the specified 10-percent owned foreign corpora-
7 tion in which the dividend is distributed, and

8 “(B) without diminution by reason of divi-
9 dends distributed during such taxable year.

10 “(3) POST-1986 UNDISTRIBUTED FOREIGN
11 EARNINGS.—The term ‘post-1986 undistributed for-
12 eign earnings’ means the portion of the post-1986
13 undistributed earnings which is attributable to nei-
14 ther—

15 “(A) income described in subparagraph (A)
16 of section 245(a)(5), nor

17 “(B) dividends described in subparagraph
18 (B) of such section (determined without regard
19 to section 245(a)(12)).

20 “(4) TREATMENT OF DISTRIBUTIONS FROM
21 EARNINGS BEFORE 1987.—

22 “(A) IN GENERAL.—In the case of any divi-
23 dend paid out of earnings and profits of the
24 specified 10-percent owned foreign corporation
25 (computed in accordance with sections 964(a)

1 and 986) accumulated in taxable years begin-
2 ning before January 1, 1987—

3 “(i) paragraphs (1), (2), and (3) shall
4 be applied without regard to the phrase
5 ‘post-1986’ each place it appears, and

6 “(ii) paragraph (2) shall be applied by
7 substituting ‘after the date specified in sec-
8 tion 316(a)(1)’ for ‘in taxable years begin-
9 ning after December 31, 1986’.

10 “(B) DIVIDENDS PAID FIRST OUT OF
11 POST-1986 EARNINGS.—Dividends shall be treat-
12 ed as paid out of post-1986 undistributed earn-
13 ings to the extent thereof.

14 “(5) TREATMENT OF CERTAIN DIVIDENDS IN
15 EXCESS OF UNDISTRIBUTED EARNINGS.—In the case
16 of any dividend from the specified 10-percent owned
17 foreign corporation which is in excess of undistrib-
18 uted earnings (as determined under paragraph (2)
19 after taking into account the modifications described
20 in clauses (i) and (ii) of paragraph (4)(A)), the for-
21 eign-source portion of such dividend is an amount
22 which bears the same ratio to such dividend as—

23 “(A) the portion of the earnings and prof-
24 its described in subparagraph (B) which is at-
25 tributable to neither income described in para-

1 graph (3)(A) nor dividends described in para-
2 graph (3)(B), bears to

3 “(B) the earnings and profits of such cor-
4 poration for the taxable year in which such dis-
5 tribution is made (computed as of the close of
6 the taxable year without diminution by reason
7 of any distributions made during the taxable
8 year).

9 “(d) DISALLOWANCE OF FOREIGN TAX CREDIT,
10 ETC.—

11 “(1) IN GENERAL.—No credit shall be allowed
12 under section 901 for any taxes paid or accrued (or
13 treated as paid or accrued) with respect to any divi-
14 dend for which a deduction is allowed under this sec-
15 tion.

16 “(2) DENIAL OF DEDUCTION.—No deduction
17 shall be allowed under this chapter for any tax for
18 which credit is not allowable under section 901 by
19 reason of paragraph (1) (determined by treating the
20 taxpayer as having elected the benefits of subpart A
21 of part III of subchapter N).

22 “(e) REGULATIONS.—The Secretary may prescribe
23 such regulations or other guidance as may be necessary
24 or appropriate to carry out the provisions of this section.”.

1 (b) APPLICATION OF HOLDING PERIOD REQUIRE-
2 MENT.—Section 246(c) is amended—

3 (1) by striking “or 245” in paragraph (1) and
4 inserting “245, or 245A”, and

5 (2) by adding at the end the following new
6 paragraph:

7 “(5) SPECIAL RULES FOR FOREIGN SOURCE
8 PORTION OF DIVIDENDS RECEIVED FROM SPECIFIED
9 10-PERCENT OWNED FOREIGN CORPORATIONS.—

10 “(A) 6-MONTH HOLDING PERIOD REQUIRE-
11 MENT.—For purposes of section 245A—

12 “(i) paragraph (1)(A) shall be ap-
13 plied—

14 “(I) by substituting ‘180 days’
15 for ‘45 days’ each place it appears, and

16 “(II) by substituting ‘361-day pe-
17 riod’ for ‘91-day period’, and

18 “(ii) paragraph (2) shall not apply.

19 “(B) STATUS MUST BE MAINTAINED DUR-
20 ING HOLDING PERIOD.—For purposes of apply-
21 ing paragraph (1) with respect to section 245A,
22 the taxpayer shall be treated as holding the
23 stock referred to in paragraph (1) for any pe-
24 riod only if—

1 “(i) the specified 10-percent owned
2 foreign corporation referred to in section
3 245A(a) is a specified 10-percent owned
4 foreign corporation for such period, and

5 “(ii) the taxpayer is a United States
6 shareholder with respect to such specified
7 10-percent owned foreign corporation for
8 such period.”.

9 (c) APPLICATION OF RULES GENERALLY APPLICA-
10 BLE TO DEDUCTIONS FOR DIVIDENDS RECEIVED.—

11 (1) TREATMENT OF DIVIDENDS FROM CERTAIN
12 CORPORATIONS.—Section 246(a)(1) is amended by
13 striking “and 245” and inserting “245, and 245A”.

14 (2) COORDINATION WITH SECTION 1059.—Sec-
15 tion 1059(b)(2)(B) is amended by striking “or 245”
16 and inserting “245, or 245A”.

17 (d) COORDINATION WITH FOREIGN TAX CREDIT
18 LIMITATION.—Section 904(b) is amended by adding at
19 the end the following new paragraph:

20 “(5) TREATMENT OF DIVIDENDS FOR WHICH
21 DEDUCTION IS ALLOWED UNDER SECTION 245A.—

22 For purposes of subsection (a), in the case of a
23 United States shareholder with respect to a specified
24 10-percent owned foreign corporation, such share-
25 holder’s taxable income from sources without the

1 United States (and entire taxable income) shall be
2 determined without regard to—

3 “(A) the foreign-source portion of any divi-
4 dend received from such foreign corporation,
5 and

6 “(B) any deductions properly allocable or
7 apportioned to—

8 “(i) income (other than subpart F in-
9 come (as defined in section 952) and for-
10 eign high return amounts (as defined in
11 section 951A(b)) with respect to stock of
12 such specified 10-percent owned foreign
13 corporation, or

14 “(ii) such stock (to the extent income
15 with respect to such stock is other than
16 subpart F income (as so defined) or for-
17 eign high return amounts (as so defined)).

18 Any term which is used in section 245A and in this
19 paragraph shall have the same meaning for purposes
20 of this paragraph as when used in such section.”.

21 (e) CONFORMING AMENDMENTS.—

22 (1) Section 245(a)(4) is amended by striking
23 “section 902(c)(1)” and inserting “section
24 245A(c)(2) applied by substituting ‘qualified 10-per-
25 cent owned foreign corporation’ for ‘specified 10-per-

1 cent owned foreign corporation’ each place it ap-
 2 pears”.

3 (2) Section 951(b) is amended by striking “sub-
 4 part” and inserting “title”.

5 (3) Section 957(a) is amended by striking “sub-
 6 part” in the matter preceding paragraph (1) and in-
 7 serting “title”.

8 (4) The table of sections for part VIII of sub-
 9 chapter B of chapter 1 is amended by inserting after
 10 section 245 the following new item:

“Sec. 245A. Deduction for foreign-source portion of dividends received by do-
 mestic corporations from specified 10-percent owned foreign
 corporations.”.

11 (f) EFFECTIVE DATE.—The amendments made by
 12 this section shall apply to distributions made after (and,
 13 in the case of the amendments made by subsection (d),
 14 deductions with respect to taxable years ending after) De-
 15 cember 31, 2017.

16 **SEC. 4002. APPLICATION OF PARTICIPATION EXEMPTION**
 17 **TO INVESTMENTS IN UNITED STATES PROP-**
 18 **ERTY.**

19 (a) IN GENERAL.—Section 956(a) is amended in the
 20 matter preceding paragraph (1) by inserting “(other than
 21 a corporation)” after “United States shareholder”.

22 (b) REGULATORY AUTHORITY TO PREVENT
 23 ABUSE.—Section 956(e) is amended by striking “includ-

1 ing regulations to prevent” and inserting “including regu-
2 lations—

3 “(1) to address United States shareholders that
4 are partnerships with corporate partners, and

5 “(2) to prevent”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to taxable years of foreign corpora-
8 tions beginning after December 31, 2017.

9 **SEC. 4003. LIMITATION ON LOSSES WITH RESPECT TO**
10 **SPECIFIED 10-PERCENT OWNED FOREIGN**
11 **CORPORATIONS.**

12 (a) BASIS IN SPECIFIED 10-PERCENT OWNED FOR-
13 EIGN CORPORATION REDUCED BY NONTAXED PORTION
14 OF DIVIDEND FOR PURPOSES OF DETERMINING LOSS.—

15 (1) IN GENERAL.—Section 961 is amended by
16 adding at the end the following new subsection:

17 “(d) BASIS IN SPECIFIED 10-PERCENT OWNED FOR-
18 EIGN CORPORATION REDUCED BY NONTAXED PORTION
19 OF DIVIDEND FOR PURPOSES OF DETERMINING LOSS.—

20 If a domestic corporation received a dividend from a speci-
21 fied 10-percent owned foreign corporation (as defined in
22 section 245A) in any taxable year, solely for purposes of
23 determining loss on any disposition of stock of such for-
24 eign corporation in such taxable year or any subsequent
25 taxable year, the basis of such domestic corporation in

1 such stock shall be reduced (but not below zero) by the
2 amount of any deduction allowable to such domestic cor-
3 poration under section 245A with respect to such stock
4 except to the extent such basis was reduced under section
5 1059 by reason of a dividend for which such a deduction
6 was allowable.”.

7 (2) EFFECTIVE DATE.—The amendments made
8 by this subsection shall apply to distributions made
9 after December 31, 2017.

10 (b) TREATMENT OF FOREIGN BRANCH LOSSES
11 TRANSFERRED TO SPECIFIED 10-PERCENT OWNED FOR-
12 EIGN CORPORATIONS.—

13 (1) IN GENERAL.—Part II of subchapter B of
14 chapter 1 is amended by adding at the end the fol-
15 lowing new section:

16 **“SEC. 91. CERTAIN FOREIGN BRANCH LOSSES TRANS-**
17 **FERRED TO SPECIFIED 10-PERCENT OWNED**
18 **FOREIGN CORPORATIONS.**

19 “(a) IN GENERAL.—If a domestic corporation trans-
20 fers substantially all of the assets of a foreign branch
21 (within the meaning of section 367(a)(3)(C)) to a specified
22 10-percent owned foreign corporation (as defined in sec-
23 tion 245A) with respect to which it is a United States
24 shareholder after such transfer, such domestic corporation
25 shall include in gross income for the taxable year which

1 includes such transfer an amount equal to the transferred
2 loss amount with respect to such transfer.

3 “(b) TRANSFERRED LOSS AMOUNT.—For purposes
4 of this section, the term ‘transferred loss amount’ means,
5 with respect to any transfer of substantially all of the as-
6 sets of a foreign branch, the excess (if any) of—

7 “(1) the sum of losses—

8 “(A) which were incurred by the foreign
9 branch after December 31, 2017, and before
10 the transfer, and

11 “(B) with respect to which a deduction was
12 allowed to the taxpayer, over

13 “(2) the sum of—

14 “(A) any taxable income of such branch
15 for a taxable year after the taxable year in
16 which the loss was incurred and through the
17 close of the taxable year of the transfer, and

18 “(B) any amount which is recognized
19 under section 904(f)(3) on account of the trans-
20 fer.

21 “(c) REDUCTION FOR RECOGNIZED GAINS.—

22 “(1) IN GENERAL.—In the case of a transfer
23 not described in section 367(a)(3)(C), the trans-
24 ferred loss amount shall be reduced (but not below
25 zero) by the amount of gain recognized by the tax-

1 payer on account of the transfer (other than
2 amounts taken into account under subsection
3 (c)(2)(B)).

4 “(2) COORDINATION WITH RECOGNITION
5 UNDER SECTION 367.—In the case of a transfer de-
6 scribed in section 367(a)(3)(C), the transferred loss
7 amount shall not exceed the excess (if any) of—

8 “(A) the excess of the amount described in
9 section 367(a)(3)(C)(i) over the amount de-
10 scribed in section 367(a)(3)(C)(ii) with respect
11 to such transfer, over

12 “(B) the amount of gain recognized under
13 section 367(a)(3)(C) with respect to such trans-
14 fer.

15 “(d) SOURCE OF INCOME.—Amounts included in
16 gross income under this section shall be treated as derived
17 from sources within the United States.

18 “(e) BASIS ADJUSTMENTS.—Consistent with such
19 regulations or other guidance as the Secretary may pre-
20 scribe, proper adjustments shall be made in the adjusted
21 basis of the taxpayer’s stock in the specified 10-percent
22 owned foreign corporation to which the transfer is made,
23 and in the transferee’s adjusted basis in the property
24 transferred, to reflect amounts included in gross income
25 under this section.”.

1 (2) AMOUNTS RECOGNIZED UNDER SECTION 367
 2 ON TRANSFER OF FOREIGN BRANCH WITH PRE-
 3 VIOUSLY DEDUCTED LOSSES TREATED AS UNITED
 4 STATES SOURCE.—Section 367(a)(3)(C) is amended
 5 by striking “outside” in the last sentence and insert-
 6 ing “within”.

7 (3) CLERICAL AMENDMENT.—The table of sec-
 8 tions for part II of subchapter B of chapter 1 is
 9 amended by adding at the end the following new
 10 item:

“Sec. 91. Certain foreign branch losses transferred to specified 10-percent
 owned foreign corporations.”.

11 (4) EFFECTIVE DATE.—The amendments made
 12 by this subsection shall apply to transfers after De-
 13 cember 31, 2017.

14 **SEC. 4004. TREATMENT OF DEFERRED FOREIGN INCOME**
 15 **UPON TRANSITION TO PARTICIPATION EX-**
 16 **EMPTION SYSTEM OF TAXATION.**

17 (a) IN GENERAL.—Section 965 is amended to read
 18 as follows:

19 **“SEC. 965. TREATMENT OF DEFERRED FOREIGN INCOME**
 20 **UPON TRANSITION TO PARTICIPATION EX-**
 21 **EMPTION SYSTEM OF TAXATION.**

22 “(a) TREATMENT OF DEFERRED FOREIGN INCOME
 23 AS SUBPART F INCOME.—In the case of the last taxable
 24 year of a deferred foreign income corporation which begins

1 before January 1, 2018, the subpart F income of such
2 foreign corporation (as otherwise determined for such tax-
3 able year under section 952) shall be increased by the
4 greater of—

5 “(1) the accumulated post-1986 deferred for-
6 eign income of such corporation determined as of
7 November 2, 2017, or

8 “(2) the accumulated post-1986 deferred for-
9 eign income of such corporation determined as of
10 December 31, 2017.

11 “(b) REDUCTION IN AMOUNTS INCLUDED IN GROSS
12 INCOME OF UNITED STATES SHAREHOLDERS OF SPECI-
13 FIED FOREIGN CORPORATIONS WITH DEFICITS IN EARN-
14 INGS AND PROFITS.—

15 “(1) IN GENERAL.—In the case of a taxpayer
16 which is a United States shareholder with respect to
17 at least one deferred foreign income corporation and
18 at least one E&P deficit foreign corporation, the
19 amount which would (but for this subsection) be
20 taken into account under section 951(a)(1) by rea-
21 son of subsection (a) as such United States share-
22 holder’s pro rata share of the subpart F income of
23 each deferred foreign income corporation shall be re-
24 duced (but not below zero) by the amount of such
25 United States shareholder’s aggregate foreign E&P

1 deficit which is allocated under paragraph (2) to
2 such deferred foreign income corporation.

3 “(2) ALLOCATION OF AGGREGATE FOREIGN E&P
4 DEFICIT.—The aggregate foreign E&P deficit of any
5 United States shareholder shall be allocated among
6 the deferred foreign income corporations of such
7 United States shareholder in an amount which bears
8 the same proportion to such aggregate as—

9 “(A) such United States shareholder’s pro
10 rata share of the accumulated post-1986 de-
11 ferred foreign income of each such deferred for-
12 eign income corporation, bears to

13 “(B) the aggregate of such United States
14 shareholder’s pro rata share of the accumulated
15 post-1986 deferred foreign income of all de-
16 ferred foreign income corporations of such
17 United States shareholder.

18 “(3) DEFINITIONS RELATED TO E&P DEFICI-
19 TIES.—For purposes of this subsection—

20 “(A) AGGREGATE FOREIGN E&P DEF-
21 ICIT.—The term ‘aggregate foreign E&P deficit’
22 means, with respect to any United States share-
23 holder, the aggregate of such shareholder’s pro
24 rata shares of the specified E&P deficits of the

1 E&P deficit foreign corporations of such share-
2 holder.

3 “(B) E&P DEFICIT FOREIGN CORPORA-
4 TION.—The term ‘E&P deficit foreign corpora-
5 tion’ means, with respect to any taxpayer, any
6 specified foreign corporation with respect to
7 which such taxpayer is a United States share-
8 holder, if—

9 “(i) such specified foreign corporation
10 has a deficit in post-1986 earnings and
11 profits, and

12 “(ii) as of November 2, 2017—

13 “(I) such corporation was a spec-
14 ified foreign corporation, and

15 “(II) such taxpayer was a United
16 States shareholder of such corpora-
17 tion.

18 “(C) SPECIFIED E&P DEFICIT.—The term
19 ‘specified E&P deficit’ means, with respect to
20 any E&P deficit foreign corporation, the
21 amount of the deficit referred to in subpara-
22 graph (B).

23 “(4) NETTING AMONG UNITED STATES SHARE-
24 HOLDERS IN SAME AFFILIATED GROUP.—

1 “(A) IN GENERAL.—In the case of any af-
2 filiated group which includes at least one E&P
3 net surplus shareholder and one E&P net def-
4 icit shareholder, the amount which would (but
5 for this paragraph) be taken into account under
6 section 951(a)(1) by reason of subsection (a) by
7 each such E&P net surplus shareholder shall be
8 reduced (but not below zero) by such share-
9 holder’s applicable share of the affiliated
10 group’s aggregate unused E&P deficit.

11 “(B) E&P NET SURPLUS SHARE-
12 HOLDER.—For purposes of this paragraph, the
13 term ‘E&P net surplus shareholder’ means any
14 United States shareholder which would (deter-
15 mined without regard to this paragraph) take
16 into account an amount greater than zero
17 under section 951(a)(1) by reason of subsection
18 (a).

19 “(C) E&P NET DEFICIT SHAREHOLDER.—
20 For purposes of this paragraph, the term ‘E&P
21 net deficit shareholder’ means any United
22 States shareholder if—

23 “(i) the aggregate foreign E&P deficit
24 with respect to such shareholder (as de-
25 fined in paragraph (3)(A)), exceeds

1 “(ii) the amount which would (but for
2 this subsection) be taken into account by
3 such shareholder under section 951(a)(1)
4 by reason of subsection (a).

5 “(D) AGGREGATE UNUSED E&P DEFICIT.—

6 For purposes of this paragraph—

7 “(i) IN GENERAL.—The term ‘aggre-
8 gate unused E&P deficit’ means, with re-
9 spect to any affiliated group, the lesser
10 of—

11 “(I) the sum of the excesses de-
12 scribed in subparagraph (C), deter-
13 mined with respect to each E&P net
14 deficit shareholder in such group, or

15 “(II) the amount determined
16 under subparagraph (E)(ii).

17 “(ii) REDUCTION WITH RESPECT TO
18 E&P NET DEFICIT SHAREHOLDERS WHICH
19 ARE NOT WHOLLY OWNED BY THE AFFILI-
20 ATED GROUP.—If the group ownership per-
21 centage of any E&P net deficit shareholder
22 is less than 100 percent, the amount of the
23 excess described in subparagraph (C)
24 which is taken into account under clause
25 (i)(I) with respect to such E&P net deficit

1 shareholder shall be such group ownership
2 percentage of such amount.

3 “(E) APPLICABLE SHARE.—For purposes
4 of this paragraph, the term ‘applicable share’
5 means, with respect to any E&P net surplus
6 shareholder in any affiliated group, the amount
7 which bears the same proportion to such
8 group’s aggregate unused E&P deficit as—

9 “(i) the product of—

10 “(I) such shareholder’s group
11 ownership percentage, multiplied by

12 “(II) the amount which would
13 (but for this paragraph) be taken into
14 account under section 951(a)(1) by
15 reason of subsection (a) by such
16 shareholder, bears to

17 “(ii) the aggregate amount deter-
18 mined under clause (i) with respect to all
19 E&P net surplus shareholders in such
20 group.

21 “(F) GROUP OWNERSHIP PERCENTAGE.—
22 For purposes of this paragraph, the term
23 ‘group ownership percentage’ means, with re-
24 spect to any United States shareholder in any
25 affiliated group, the percentage of the value of

1 the stock of such United States shareholder
2 which is held by other includible corporations in
3 such affiliated group. Notwithstanding the pre-
4 ceding sentence, the group ownership percent-
5 age of the common parent of the affiliated
6 group is 100 percent. Any term used in this
7 subparagraph which is also used in section
8 1504 shall have the same meaning as when
9 used in such section.

10 “(c) APPLICATION OF PARTICIPATION EXEMPTION
11 TO INCLUDED INCOME.—

12 “(1) IN GENERAL.—In the case of a United
13 States shareholder of a deferred foreign income cor-
14 poration, there shall be allowed as a deduction for
15 the taxable year in which an amount is included in
16 the gross income of such United States shareholder
17 under section 951(a)(1) by reason of this section an
18 amount equal to the sum of—

19 “(A) the United States shareholder’s 5
20 percent rate equivalent percentage of the excess
21 (if any) of—

22 “(i) the amount so included as gross
23 income, over

1 “(ii) the amount of such United
2 States shareholder’s aggregate foreign cash
3 position, plus

4 “(B) the United States shareholder’s 12
5 percent rate equivalent percentage of so much
6 of the amount described in subparagraph (A)(ii)
7 as does not exceed the amount described in sub-
8 paragraph (A)(i).

9 “(2) 5 AND 12 PERCENT RATE EQUIVALENT
10 PERCENTAGES.—For purposes of this subsection—

11 “(A) 5 PERCENT RATE EQUIVALENT PER-
12 CENTAGE.—The term ‘5 percent rate equivalent
13 percentage’ means, with respect to any United
14 States shareholder for any taxable year, the
15 percentage which would result in the amount to
16 which such percentage applies being subject to
17 a 5 percent rate of tax determined by only tak-
18 ing into account a deduction equal to such per-
19 centage of such amount and the highest rate of
20 tax specified in section 11 for such taxable
21 year. In the case of any taxable year of a
22 United States shareholder to which section 15
23 applies, the highest rate of tax under section 11
24 before the effective date of the change in rates
25 and the highest rate of tax under section 11

1 after the effective date of such change shall
2 each be taken into account under the preceding
3 sentence in the same proportions as the portion
4 of such taxable year which is before and after
5 such effective date, respectively.

6 “(B) 12 PERCENT RATE EQUIVALENT PER-
7 CENTAGE.—The term ‘12 percent rate equiva-
8 lent percentage’ means, with respect to any
9 United States shareholder for any taxable year,
10 the percentage determined under subparagraph
11 (A) applied by substituting ‘12 percent rate of
12 tax’ for ‘5 percent rate of tax’.

13 “(3) AGGREGATE FOREIGN CASH POSITION.—

14 For purposes of this subsection—

15 “(A) IN GENERAL.—The term ‘aggregate
16 foreign cash position’ means, with respect to
17 any United States shareholder, one-third of the
18 sum of—

19 “(i) the aggregate of such United
20 States shareholder’s pro rata share of the
21 cash position of each specified foreign cor-
22 poration of such United States shareholder
23 determined as of November 2, 2017,

24 “(ii) the aggregate described in clause
25 (i) determined as of the close of the last

1 taxable year of each such specified foreign
2 corporation which ends before November 2,
3 2017, and

4 “(iii) the aggregate described in
5 clause (i) determined as of the close of the
6 taxable year of each such specified foreign
7 corporation which precedes the taxable
8 year referred to in clause (ii).

9 In the case of any foreign corporation which did
10 not exist as of the determination date described
11 in clause (ii) or (iii), this subparagraph shall be
12 applied separately to such foreign corporation
13 by not taking into account such clause and by
14 substituting ‘one-half (100 percent in the case
15 that both clauses (ii) and (iii) are disregarded)’
16 for ‘one-third’.

17 “(B) CASH POSITION.—For purposes of
18 this paragraph, the cash position of any speci-
19 fied foreign corporation is the sum of—

20 “(i) cash held by such foreign cor-
21 poration,

22 “(ii) the net accounts receivable of
23 such foreign corporation, plus

24 “(iii) the fair market value of the fol-
25 lowing assets held by such corporation:

1 “(I) Actively traded personal
2 property for which there is an estab-
3 lished financial market.

4 “(II) Commercial paper, certifi-
5 cates of deposit, the securities of the
6 Federal government and of any State
7 or foreign government.

8 “(III) Any foreign currency.

9 “(IV) Any obligation with a term
10 of less than one year.

11 “(V) Any asset which the Sec-
12 retary identifies as being economically
13 equivalent to any asset described in
14 this subparagraph.

15 “(C) NET ACCOUNTS RECEIVABLE.—For
16 purposes of this paragraph, the term ‘net ac-
17 counts receivable’ means, with respect to any
18 specified foreign corporation, the excess (if any)
19 of—

20 “(i) such corporation’s accounts re-
21 ceivable, over

22 “(ii) such corporation’s accounts pay-
23 able (determined consistent with the rules
24 of section 461).

1 “(D) PREVENTION OF DOUBLE COUNT-
2 ING.—

3 “(i) IN GENERAL.—The applicable
4 percentage of each specified cash position
5 of a specified foreign corporation shall not
6 be taken into account by—

7 “(I) the United States share-
8 holder referred to in clause (ii) with
9 respect to such position, or

10 “(II) any United States share-
11 holder which is an includible corpora-
12 tion in the same affiliated group as
13 such United States shareholder re-
14 ferred to in clause (ii).

15 “(ii) SPECIFIED CASH POSITION.—For
16 purposes of this subparagraph, the term
17 ‘specified cash position’ means—

18 “(I) amounts described in sub-
19 paragraph (B)(ii) to the extent such
20 amounts are receivable from another
21 specified foreign corporation with re-
22 spect to any United States share-
23 holder,

24 “(II) amounts described in sub-
25 paragraph (B)(iii)(I) to the extent

1 such amounts consist of an equity in-
2 terest in another specified foreign cor-
3 poration with respect to any United
4 States shareholder, and

5 “(III) amounts described in sub-
6 paragraph (B)(iii)(IV) to the extent
7 that another specified foreign corpora-
8 tion with respect to any United States
9 shareholder is obligated to repay such
10 amount.

11 “(iii) APPLICABLE PERCENTAGE.—

12 For purposes of this subparagraph, the
13 term ‘applicable percentage’ means—

14 “(I) with respect to each speci-
15 fied cash position described in sub-
16 clause (I) or (III) of clause (ii), the
17 pro rata share of the United States
18 shareholder referred to in clause (ii)
19 with respect to the specified foreign
20 corporation referred to in such clause,
21 and

22 “(II) with respect to each speci-
23 fied cash position described in clause
24 (ii)(II), the ratio (expressed as a per-
25 centage and not in excess of 100 per-

1 cent) of the United States share-
2 holder's pro rata share of the cash po-
3 sition of the specified foreign corpora-
4 tion referred to in such clause divided
5 by the amount of such specified cash
6 position.

7 For purposes of this subparagraph, a sepa-
8 rate applicable percentage shall be deter-
9 mined under each of subclauses (I) and
10 (II) with respect to each specified foreign
11 corporation referred to in clause (ii) with
12 respect to which a specified cash position
13 is determined for the specified foreign cor-
14 poration referred to in clause (i).

15 “(iv) REDUCTION WITH RESPECT TO
16 AFFILIATED GROUP MEMBERS NOT WHOL-
17 LY OWNED BY THE AFFILIATED GROUP.—
18 For purposes of clause (i)(II), in the case
19 of an includible corporation the group own-
20 ership percentage of which is less than 100
21 percent (as determined under subsection
22 (b)(4)(F)), the amount not take into ac-
23 count by reason of such clause shall be the
24 group ownership percentage of such

1 amount (determined without regard to this
2 clause).

3 “(E) CERTAIN BLOCKED ASSETS NOT
4 TAKEN INTO ACCOUNT.—A cash position of a
5 specified foreign corporation shall not be taken
6 into account under subparagraph (A) if such
7 position could not (as of the date that it would
8 otherwise have been taken into account under
9 clause (i), (ii), or (iii) of subparagraph (A))
10 have been distributed by such specified foreign
11 corporation to United States shareholders of
12 such specified foreign corporation because of
13 currency or other restrictions or limitations im-
14 posed under the laws of any foreign country
15 (within the meaning of section 964(b)).

16 “(F) CASH POSITIONS OF CERTAIN NON-
17 CORPORATE ENTITIES TAKEN INTO ACCOUNT.—
18 An entity (other than a domestic corporation)
19 shall be treated as a specified foreign corpora-
20 tion of a United States shareholder for pur-
21 poses of determining such United States share-
22 holder’s aggregate foreign cash position if any
23 interest in such entity is held by a specified for-
24 eign corporation of such United States share-
25 holder (determined after application of this sub-

1 paragraph) and such entity would be a specified
2 foreign corporation of such United States
3 shareholder if such entity were a foreign cor-
4 poration

5 “(G) TIME OF CERTAIN DETERMINA-
6 TIONS.—For purposes of this paragraph, the
7 determination of whether a person is a United
8 States shareholder, whether a person is a speci-
9 fied foreign corporation, and the pro rata share
10 of a United States shareholder with respect to
11 a specified foreign corporation, shall be deter-
12 mined as of the end of the taxable year de-
13 scribed in subsection (a).

14 “(H) ANTI-ABUSE.—If the Secretary de-
15 termines that the principal purpose of any
16 transaction was to reduce the aggregate foreign
17 cash position taken into account under this sub-
18 section, such transaction shall be disregarded
19 for purposes of this subsection.

20 “(d) DEFERRED FOREIGN INCOME CORPORATION;
21 ACCUMULATED POST-1986 DEFERRED FOREIGN IN-
22 COME.—For purposes of this section—

23 “(1) DEFERRED FOREIGN INCOME CORPORA-
24 TION.—The term ‘deferred foreign income corpora-
25 tion’ means, with respect to any United States

1 shareholder, any specified foreign corporation of
2 such United States shareholder which has accumu-
3 lated post-1986 deferred foreign income (as of the
4 date referred to in paragraph (1) or (2) of sub-
5 section (a), whichever is applicable with respect to
6 such foreign corporation) greater than zero.

7 “(2) ACCUMULATED POST-1986 DEFERRED FOR-
8 EIGN INCOME.—The term ‘accumulated post-1986
9 deferred foreign income’ means the post-1986 earn-
10 ings and profits except to the extent such earnings—

11 “(A) are attributable to income of the
12 specified foreign corporation which is effectively
13 connected with the conduct of a trade or busi-
14 ness within the United States and subject to
15 tax under this chapter, or

16 “(B) if distributed, would be excluded from
17 the gross income of a United States shareholder
18 under section 959.

19 To the extent provided in regulations or other guid-
20 ance prescribed by the Secretary, in the case of any
21 controlled foreign corporation which has share-
22 holders which are not United States shareholders,
23 accumulated post-1986 deferred foreign income shall
24 be appropriately reduced by amounts which would be

1 described in subparagraph (B) if such shareholders
2 were United States shareholders.

3 “(3) POST-1986 EARNINGS AND PROFITS.—The
4 term ‘post-1986 earnings and profits’ means the
5 earnings and profits of the foreign corporation (com-
6 puted in accordance with sections 964(a) and 986)
7 accumulated in taxable years beginning after Decem-
8 ber 31, 1986, and determined—

9 “(A) as of the date referred to in para-
10 graph (1) or (2) of subsection (a), whichever is
11 applicable with respect to such foreign corpora-
12 tion,

13 “(B) without diminution by reason of divi-
14 dends distributed during the taxable year end-
15 ing with or including such date, and

16 “(C) increased by the amount of any quali-
17 fied deficit (within the meaning of section
18 952(c)(1)(B)(ii)) arising before January 1,
19 2018, which is treated as a qualified deficit
20 (within the meaning of such section as amended
21 by the Tax Cuts and Jobs Act) for purposes of
22 such foreign corporation’s first taxable year be-
23 ginning after December 31, 2017.

24 “(e) SPECIFIED FOREIGN CORPORATION.—

1 “(1) IN GENERAL.—For purposes of this sec-
2 tion, the term ‘specified foreign corporation’
3 means—

4 “(A) any controlled foreign corporation,
5 and

6 “(B) any foreign corporation with respect
7 to which one or more domestic corporations is
8 a United States shareholder (determined with-
9 out regard to section 958(b)(4)).

10 “(2) APPLICATION TO CERTAIN FOREIGN COR-
11 PORATIONS.—For purposes of sections 951 and 961,
12 a foreign corporation described in paragraph (1)(B)
13 shall be treated as a controlled foreign corporation
14 solely for purposes of taking into account the sub-
15 part F income of such corporation under subsection
16 (a) (and for purposes of applying subsection (f)).

17 “(3) EXCEPTION FOR PASSIVE FOREIGN IN-
18 VESTMENT COMPANIES.—The term ‘specified foreign
19 corporation’ shall not include any passive foreign in-
20 vestment company (within the meaning of subpart D
21 of part VI of subchapter P) that is not a controlled
22 foreign corporation.

23 “(f) DETERMINATIONS OF PRO RATA SHARE.—For
24 purposes of this section, the determination of any United
25 States shareholder’s pro rata share of any amount with

1 respect to any specified foreign corporation shall be deter-
2 mined under rules similar to the rules of section 951(a)(2)
3 by treating such amount in the same manner as subpart
4 F income (and by treating such specified foreign corpora-
5 tion as a controlled foreign corporation).

6 “(g) DISALLOWANCE OF FOREIGN TAX CREDIT,
7 ETC.—

8 “(1) IN GENERAL.—No credit shall be allowed
9 under section 901 for the applicable percentage of
10 any taxes paid or accrued (or treated as paid or ac-
11 crued) with respect to any amount for which a de-
12 duction is allowed under this section.

13 “(2) APPLICABLE PERCENTAGE.—For purposes
14 of this subsection, the term ‘applicable percentage’
15 means the amount (expressed as a percentage) equal
16 to the sum of—

17 “(A) 85.7 percent of the ratio of—

18 “(i) the excess to which subsection
19 (c)(1)(A) applies, divided by

20 “(ii) the sum of such excess plus the
21 amount to which subsection (c)(1)(B) ap-
22 plies, plus

23 “(B) 65.7 percent of the ratio of—

24 “(i) the amount to which subsection
25 (c)(1)(B) applies, divided by

1 “(ii) the sum described in subpara-
2 graph (A)(ii).

3 “(3) DENIAL OF DEDUCTION.—No deduction
4 shall be allowed under this chapter for any tax for
5 which credit is not allowable under section 901 by
6 reason of paragraph (1) (determined by treating the
7 taxpayer as having elected the benefits of subpart A
8 of part III of subchapter N).

9 “(4) COORDINATION WITH SECTION 78.—Sec-
10 tion 78 shall not apply to any tax for which credit
11 is not allowable under section 901 by reason of para-
12 graph (1).

13 “(5) EXTENSION OF FOREIGN TAX CREDIT CAR-
14 RYOVER PERIOD.—With respect to any taxes paid or
15 accrued (or treated as paid or accrued) with respect
16 to any amount for which a deduction is allowed
17 under this section, section 904(c) shall be applied by
18 substituting ‘first 20 succeeding taxable years’ for
19 ‘first 10 succeeding taxable years’.

20 “(h) ELECTION TO PAY LIABILITY IN INSTALL-
21 MENTS.—

22 “(1) IN GENERAL.—In the case of a United
23 States shareholder of a deferred foreign income cor-
24 poration, such United States shareholder may elect

1 to pay the net tax liability under this section in 8
2 equal installments.

3 “(2) DATE FOR PAYMENT OF INSTALLMENTS.—

4 If an election is made under paragraph (1), the first
5 installment shall be paid on the due date (deter-
6 mined without regard to any extension of time for
7 filing the return) for the return of tax for the tax-
8 able year described in subsection (a) and each suc-
9 ceeding installment shall be paid on the due date (as
10 so determined) for the return of tax for the taxable
11 year following the taxable year with respect to which
12 the preceding installment was made.

13 “(3) ACCELERATION OF PAYMENT.—If there is
14 an addition to tax for failure to timely pay any in-
15 stallment required under this subsection, a liquida-
16 tion or sale of substantially all the assets of the tax-
17 payer (including in a title 11 or similar case), a ces-
18 sation of business by the taxpayer, or any similar
19 circumstance, then the unpaid portion of all remain-
20 ing installments shall be due on the date of such
21 event (or in the case of a title 11 or similar case,
22 the day before the petition is filed). The preceding
23 sentence shall not apply to the sale of substantially
24 all the assets of a taxpayer to a buyer if such buyer
25 enters into an agreement with the Secretary under

1 which such buyer is liable for the remaining install-
2 ments due under this subsection in the same manner
3 as if such buyer were the taxpayer.

4 “(4) PRORATION OF DEFICIENCY TO INSTALL-
5 MENTS.—If an election is made under paragraph (1)
6 to pay the net tax liability under this section in in-
7 stallments and a deficiency has been assessed with
8 respect to such net tax liability, the deficiency shall
9 be prorated to the installments payable under para-
10 graph (1). The part of the deficiency so prorated to
11 any installment the date for payment of which has
12 not arrived shall be collected at the same time as,
13 and as a part of, such installment. The part of the
14 deficiency so prorated to any installment the date
15 for payment of which has arrived shall be paid upon
16 notice and demand from the Secretary. This sub-
17 section shall not apply if the deficiency is due to
18 negligence, to intentional disregard of rules and reg-
19 ulations, or to fraud with intent to evade tax.

20 “(5) ELECTION.—Any election under paragraph
21 (1) shall be made not later than the due date for the
22 return of tax for the taxable year described in sub-
23 section (a) and shall be made in such manner as the
24 Secretary may provide.

1 “(6) NET TAX LIABILITY UNDER THIS SEC-
2 TION.—For purposes of this subsection—

3 “(A) IN GENERAL.—The net tax liability
4 under this section with respect to any United
5 States shareholder is the excess (if any) of—

6 “(i) such taxpayer’s net income tax
7 for the taxable year in which an amount is
8 included in the gross income of such
9 United States shareholder under section
10 951(a)(1) by reason of this section, over

11 “(ii) such taxpayer’s net income tax
12 for such taxable year determined—

13 “(I) without regard to this sec-
14 tion, and

15 “(II) without regard to any in-
16 come, deduction, or credit, properly
17 attributable to a dividend received by
18 such United States shareholder from
19 any deferred foreign income corpora-
20 tion.

21 “(B) NET INCOME TAX.—The term ‘net
22 income tax’ means the regular tax liability re-
23 duced by the credits allowed under subparts A,
24 B, and D of part IV of subchapter A.

1 “(i) SPECIAL RULES FOR S CORPORATION SHARE-
2 HOLDERS.—

3 “(1) IN GENERAL.—In the case of any S cor-
4 poration which is a United States shareholder of a
5 deferred foreign income corporation, each share-
6 holder of such S corporation may elect to defer pay-
7 ment of such shareholder’s net tax liability under
8 this section with respect to such S corporation until
9 the shareholder’s taxable year which includes the
10 triggering event with respect to such liability. Any
11 net tax liability payment of which is deferred under
12 the preceding sentence shall be assessed on the re-
13 turn as an addition to tax in the shareholder’s tax-
14 able year which includes such triggering event.

15 “(2) TRIGGERING EVENT.—

16 “(A) IN GENERAL.—In the case of any
17 shareholder’s net tax liability under this section
18 with respect to any S corporation, the trig-
19 gering event with respect to such liability is
20 whichever of the following occurs first:

21 “(i) Such corporation ceases to be an
22 S corporation (determined as of the first
23 day of the first taxable year that such cor-
24 poration is not an S corporation).

1 “(ii) A liquidation or sale of substan-
2 tially all the assets of such S corporation
3 (including in a title 11 or similar case), a
4 cessation of business by such S corpora-
5 tion, such S corporation ceases to exist, or
6 any similar circumstance.

7 “(iii) A transfer of any share of stock
8 in such S corporation by the taxpayer (in-
9 cluding by reason of death, or otherwise).

10 “(B) PARTIAL TRANSFERS OF STOCK.—In
11 the case of a transfer of less than all of the tax-
12 payer’s shares of stock in the S corporation,
13 such transfer shall only be a triggering event
14 with respect to so much of the taxpayer’s net
15 tax liability under this section with respect to
16 such S corporation as is properly allocable to
17 such stock.

18 “(C) TRANSFER OF LIABILITY.—A trans-
19 fer described in clause (iii) shall not be treated
20 as a triggering event if the transferee enters
21 into an agreement with the Secretary under
22 which such transferee is liable for net tax liabil-
23 ity with respect to such stock in the same man-
24 ner as if such transferee were the taxpayer.

1 “(3) NET TAX LIABILITY.—A shareholder’s net
2 tax liability under this section with respect to any S
3 corporation is the net tax liability under this section
4 which would be determined under subsection (h)(6)
5 if the only subpart F income taken into account by
6 such shareholder by reason of this section were allo-
7 cations from such S corporation.

8 “(4) ELECTION TO PAY DEFERRED LIABILITY
9 IN INSTALLMENTS.—In the case of a taxpayer which
10 elects to defer payment under paragraph (1)—

11 “(A) subsection (h) shall be applied sepa-
12 rately with respect to the liability to which such
13 election applies,

14 “(B) an election under subsection (h) with
15 respect to such liability shall be treated as time-
16 ly made if made not later than the due date for
17 the return of tax for the taxable year in which
18 the triggering event with respect to such liabil-
19 ity occurs,

20 “(C) the first installment under subsection
21 (h) with respect to such liability shall be paid
22 not later than such due date (but determined
23 without regard to any extension of time for fil-
24 ing the return), and

1 “(D) if the triggering event with respect to
2 any net tax liability is described in paragraph
3 (2)(A)(ii), an election under subsection (h) with
4 respect to such liability may be made only with
5 the consent of the Secretary.

6 “(5) JOINT AND SEVERAL LIABILITY OF S COR-
7 PORATION.—If any shareholder of an S corporation
8 elects to defer payment under paragraph (1), such
9 S corporation shall be jointly and severally liable for
10 such payment and any penalty, addition to tax, or
11 additional amount attributable thereto.

12 “(6) EXTENSION OF LIMITATION ON COLLEC-
13 TION.—Notwithstanding any other provision of law,
14 any limitation on the time period for the collection
15 of a liability deferred under this subsection shall not
16 be treated as beginning before the date of the trig-
17 gering event with respect to such liability.

18 “(7) ANNUAL REPORTING OF NET TAX LIABIL-
19 ITY.—

20 “(A) IN GENERAL.—Any shareholder of an
21 S corporation which makes an election under
22 paragraph (1) shall report the amount of such
23 shareholder’s deferred net tax liability on such
24 shareholder’s return of tax for the taxable year
25 for which such election is made and on the re-

1 turn of tax for each taxable year thereafter
2 until such amount has been fully assessed on
3 such returns.

4 “(B) DEFERRED NET TAX LIABILITY.—
5 For purposes of this paragraph, the term ‘de-
6 ferred net tax liability’ means, with respect to
7 any taxable year, the amount of net tax liability
8 payment of which has been deferred under
9 paragraph (1) and which has not been assessed
10 on a return of tax for any prior taxable year.

11 “(C) FAILURE TO REPORT.—In the case of
12 any failure to report any amount required to be
13 reported under subparagraph (A) with respect
14 to any taxable year before the due date for the
15 return of tax for such taxable year, there shall
16 be assessed on such return as an addition to
17 tax 5 percent of such amount.

18 “(8) ELECTION.—Any election under paragraph
19 (1)—

20 “(A) shall be made by the shareholder of
21 the S corporation not later than the due date
22 for such shareholder’s return of tax for the tax-
23 able year which includes the close of the taxable
24 year of such S corporation in which the amount

1 described in subsection (a) is taken into ac-
2 count, and

3 “(B) shall be made in such manner as the
4 Secretary may provide.

5 “(j) REPORTING BY S CORPORATION.—Each S cor-
6 poration which is a United States shareholder of a de-
7 ferred foreign income corporation shall report in its return
8 of tax under section 6037(a) the amount includible in its
9 gross income for such taxable year by reason of this sec-
10 tion and the amount of the deduction allowable by sub-
11 section (c). Any copy provided to a shareholder under sec-
12 tion 6037(b) shall include a statement of such share-
13 holder’s pro rata share of such amounts.

14 “(k) INCLUSION OF DEFERRED FOREIGN INCOME
15 UNDER THIS SECTION NOT TO TRIGGER RECAPTURE OF
16 OVERALL FOREIGN LOSS, ETC.—For purposes of sections
17 904(f)(1) and 907(c)(4), in the case of a United States
18 shareholder of a deferred foreign income corporation, such
19 United States shareholder’s taxable income from sources
20 without the United States and combined foreign oil and
21 gas income shall be determined without regard to this sec-
22 tion.

23 “(l) REGULATIONS.—The Secretary may prescribe
24 such regulations or other guidance as may be necessary
25 or appropriate to carry out the provisions of this section.”.

1 (b) CLERICAL AMENDMENT.—The table of section
 2 for subpart F of part III of subchapter N of chapter 1
 3 is amended by striking the item relating to section 965
 4 and inserting the following:

“Sec. 965. Treatment of deferred foreign income upon transition to participa-
 tion exemption system of taxation.”.

5 **Subtitle B—Modifications Related**
 6 **to Foreign Tax Credit System**

7 **SEC. 4101. REPEAL OF SECTION 902 INDIRECT FOREIGN**
 8 **TAX CREDITS; DETERMINATION OF SECTION**
 9 **960 CREDIT ON CURRENT YEAR BASIS.**

10 (a) REPEAL OF SECTION 902 INDIRECT FOREIGN
 11 TAX CREDITS.—Subpart A of part III of subchapter N
 12 of chapter 1 is amended by striking section 902.

13 (b) DETERMINATION OF SECTION 960 CREDIT ON
 14 CURRENT YEAR BASIS.—Section 960 is amended—

15 (1) by striking subsection (c), by redesignating
 16 subsection (b) as subsection (c), by striking all that
 17 precedes subsection (c) (as so redesignated) and in-
 18 serting the following:

19 **“SEC. 960. DEEMED PAID CREDIT FOR SUBPART F INCLU-**
 20 **SIONS.**

21 “(a) IN GENERAL.—For purposes of this subpart, if
 22 there is included in the gross income of a domestic cor-
 23 poration any item of income under section 951(a)(1) with
 24 respect to any controlled foreign corporation with respect

1 to which such domestic corporation is a United States
2 shareholder, such domestic corporation shall be deemed to
3 have paid so much of such foreign corporation's foreign
4 income taxes as are properly attributable to such item of
5 income.

6 “(b) SPECIAL RULES FOR DISTRIBUTIONS FROM
7 PREVIOUSLY TAXED EARNINGS AND PROFITS.—For pur-
8 poses of this subpart—

9 “(1) IN GENERAL.—If any portion of a dis-
10 tribution from a controlled foreign corporation to a
11 domestic corporation which is a United States share-
12 holder with respect to such controlled foreign cor-
13 poration is excluded from gross income under section
14 959(a), such domestic corporation shall be deemed
15 to have paid so much of such foreign corporation's
16 foreign income taxes as—

17 “(A) are properly attributable to such por-
18 tion, and

19 “(B) have not been deemed to have to been
20 paid by such domestic corporation under this
21 section for the taxable year or any prior taxable
22 year.

23 “(2) TIERED CONTROLLED FOREIGN CORPORA-
24 TIONS.—If section 959(b) applies to any portion of
25 a distribution from a controlled foreign corporation

1 to another controlled foreign corporation, such con-
2 trolled foreign corporation shall be deemed to have
3 paid so much of such other controlled foreign cor-
4 poration's foreign income taxes as—

5 “(A) are properly attributable to such por-
6 tion, and

7 “(B) have not been deemed to have been
8 paid by a domestic corporation under this sec-
9 tion for the taxable year or any prior taxable
10 year.”,

11 (2) and by adding after subsection (c) (as so re-
12 designated) the following new subsections:

13 “(d) FOREIGN INCOME TAXES.—The term ‘foreign
14 income taxes’ means any income, war profits, or excess
15 profits taxes paid or accrued to any foreign country or
16 possession of the United States.

17 “(e) REGULATIONS.—The Secretary may prescribe
18 such regulations or other guidance as may be necessary
19 or appropriate to carry out the provisions of this section.”.

20 (c) CONFORMING AMENDMENTS.—

21 (1) Section 78 is amended to read as follows:

22 **“SEC. 78. GROSS UP FOR DEEMED PAID FOREIGN TAX**
23 **CREDIT.**

24 “If a domestic corporation chooses to have the bene-
25 fits of subpart A of part III of subchapter N (relating

1 to foreign tax credit) for any taxable year, an amount
2 equal to the taxes deemed to be paid by such corporation
3 under subsections (a) and (b) of section 960 for such tax-
4 able year shall be treated for purposes of this title (other
5 than sections 959, 960, and 961) as an item of income
6 required to be included in the gross income of such domes-
7 tie corporation under section 951(a) for such taxable
8 year.”.

9 (2) Section 245(a)(10)(C) is amended by strik-
10 ing “sections 902, 907, and 960” and inserting
11 “sections 907 and 960”.

12 (3) Sections 535(b)(1) and 545(b)(1) are each
13 amended by striking “section 902(a) or 960(a)(1)”
14 and inserting “section 960”.

15 (4) Section 814(f)(1) is amended—

16 (A) by striking subparagraph (B), and

17 (B) by striking all that precedes “No in-
18 come” and inserting the following:

19 “(1) TREATMENT OF FOREIGN TAXES.—”.

20 (5) Section 865(h)(1)(B) is amended by strik-
21 ing “sections 902, 907, and 960” and inserting
22 “sections 907 and 960”.

23 (6) Section 901(a) is amended by striking “sec-
24 tions 902 and 960” and inserting “section 960”.

1 (7) Section 901(e)(2) is amended by striking
2 “but is not limited to—” and all that follows
3 through “that portion” and inserting “but is not
4 limited to, that portion”.

5 (8) Section 901(f) is amended by striking “sec-
6 tions 902 and 960” and inserting “section 960”.

7 (9) Section 901(j)(1)(A) is amended by striking
8 “902 or”.

9 (10) Section 901(j)(1)(B) is amended by strik-
10 ing “sections 902 and 960” and inserting “section
11 960”.

12 (11) Section 901(k)(2) is amended by striking
13 “section 853, 902, or 960” and inserting “section
14 853 or 960”.

15 (12) Section 901(k)(6) is amended by striking
16 “902 or”.

17 (13) Section 901(m)(1) is amended by striking
18 “relevant foreign assets—” and all that follows and
19 inserting “relevant foreign assets shall not be taken
20 into account in determining the credit allowed under
21 subsection (a).”.

22 (14) Section 904(d)(1) is amended by striking
23 “sections 902, 907, and 960” and inserting “sec-
24 tions 907 and 960”.

1 (15) Section 904(d)(6)(A) is amended by strik-
2 ing “sections 902, 907, and 960” and inserting
3 “sections 907 and 960”.

4 (16) Section 904(h)(10)(A) is amended by
5 striking “sections 902, 907, and 960” and inserting
6 “sections 907 and 960”.

7 (17) Section 904 is amended by striking sub-
8 section (k).

9 (18) Section 905(c)(1) is amended by striking
10 the last sentence.

11 (19) Section 905(c)(2)(B)(i) is amended to read
12 as follows:

13 “(i) shall be taken into account for
14 the taxable year to which such taxes relate,
15 and”.

16 (20) Section 906(a) is amended by striking “(or
17 deemed, under section 902, paid or accrued during
18 the taxable year)”.

19 (21) Section 906(b) is amended by striking
20 paragraphs (4) and (5).

21 (22) Section 907(b)(2)(B) is amended by strik-
22 ing “902 or”.

23 (23) Section 907(c)(3) is amended—

1 (A) by striking subparagraph (A) and re-
2 designating subparagraphs (B) and (C) as sub-
3 paragraphs (A) and (B), respectively, and

4 (B) by striking “section 960(a)” in sub-
5 paragraph (A) (as so redesignated) and insert-
6 ing “section 960”.

7 (24) Section 907(c)(5) is amended by striking
8 “902 or”.

9 (25) Section 907(f)(2)(B)(i) is amended by
10 striking “902 or”.

11 (26) Section 908(a) is amended by striking
12 “902 or”.

13 (27) Section 909(b) is amended—

14 (A) by striking “section 902 corporation”
15 in the matter preceding paragraph (1) and in-
16 serting “10/50 corporation”,

17 (B) by striking “902 or” in paragraph (1),

18 (C) by striking “by such section 902 cor-
19 poration” and all that follows in the matter fol-
20 lowing paragraph (2) and inserting “by such
21 10/50 corporation or a domestic corporation
22 which is a United States shareholder with re-
23 spect to such 10/50 corporation.”, and

1 (D) by striking “SECTION 902 CORPORA-
2 TIONS” in the heading thereof and inserting
3 “10/50 CORPORATIONS”.

4 (28) Section 909(d)(5) is amended to read as
5 follows:

6 “(5) 10/50 CORPORATION.—The term ‘10/50
7 corporation’ means any foreign corporation with re-
8 spect to which one or more domestic corporations is
9 a United States shareholder.”.

10 (29) Section 958(a)(1) is amended by striking
11 “960(a)(1)” and inserting “960”.

12 (30) Section 959(d) is amended by striking
13 “Except as provided in section 960(a)(3), any” and
14 inserting “Any”.

15 (31) Section 959(e) is amended by striking
16 “section 960(b)” and inserting “section 960(c)”.

17 (32) Section 1291(g)(2)(A) is amended by
18 striking “any distribution—” and all that follows
19 through “but only if” and inserting “any distribu-
20 tion, any withholding tax imposed with respect to
21 such distribution, but only if”.

22 (33) Section 6038(c)(1)(B) is amended by
23 striking “sections 902 (relating to foreign tax credit
24 for corporate stockholder in foreign corporation) and

1 960 (relating to special rules for foreign tax credit)”
2 and inserting “section 960”.

3 (34) Section 6038(c)(4) is amended by striking
4 subparagraph (C).

5 (35) The table of sections for subpart A of part
6 III of subchapter N of chapter 1 is amended by
7 striking the item relating to section 902.

8 (36) The table of sections for subpart F of part
9 III of subchapter N of chapter 1 is amended by
10 striking the item relating to section 960 and insert-
11 ing the following:

“Sec. 960. Deemed paid credit for subpart F inclusions.”.

12 (d) **EFFECTIVE DATE.**—The amendments made by
13 this section shall apply to taxable years beginning after
14 December 31, 2017.

15 **SEC. 4102. SOURCE OF INCOME FROM SALES OF INVEN-**
16 **TORY DETERMINED SOLELY ON BASIS OF**
17 **PRODUCTION ACTIVITIES.**

18 (a) **IN GENERAL.**—Section 863(b) is amended by
19 adding at the end the following: “Gains, profits, and in-
20 come from the sale or exchange of inventory property de-
21 scribed in paragraph (2) shall be allocated and appor-
22 tioned between sources within and without the United
23 States solely on the basis of the production activities with
24 respect to the property.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to taxable years beginning after
3 December 31, 2017.

4 **Subtitle C—Modification of**
5 **Subpart F Provisions**

6 **SEC. 4201. REPEAL OF INCLUSION BASED ON WITHDRAWAL**
7 **OF PREVIOUSLY EXCLUDED SUBPART F IN-**
8 **COME FROM QUALIFIED INVESTMENT.**

9 (a) IN GENERAL.—Subpart F of part III of sub-
10 chapter N of chapter 1 is amended by striking section 955.

11 (b) CONFORMING AMENDMENTS.—

12 (1)(A) Section 951(a)(1)(A) is amended to read
13 as follows:

14 “(A) his pro rata share (determined under
15 paragraph (2)) of the corporation’s subpart F
16 income for such year, and”.

17 (B) Section 851(b)(3) is amended by striking
18 “section 951(a)(1)(A)(i)” in the flush language at
19 the end and inserting “section 951(a)(1)(A)”.

20 (C) Section 952(c)(1)(B)(i) is amended by
21 striking “section 951(a)(1)(A)(i)” and inserting
22 “section 951(a)(1)(A)”.

23 (D) Section 953(e)(1)(C) is amended by strik-
24 ing “section 951(a)(1)(A)(i)” and inserting “section
25 951(a)(1)(A)”.

1 (2) Section 951(a) is amended by striking para-
2 graph (3).

3 (3) Section 953(d)(4)(B)(iv)(II) is amended by
4 striking “or amounts referred to in clause (ii) or (iii)
5 of section 951(a)(1)(A)”.

6 (4) Section 964(b) is amended by striking “,
7 955,”.

8 (5) Section 970 is amended by striking sub-
9 section (b).

10 (6) The table of sections for subpart F of part
11 III of subchapter N of chapter 1 is amended by
12 striking the item relating to section 955.

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to taxable years of foreign corpora-
15 tions beginning after December 31, 2017, and to taxable
16 years of United States shareholders in which or with which
17 such taxable years of foreign corporations end.

18 **SEC. 4202. REPEAL OF TREATMENT OF FOREIGN BASE COM-**
19 **PANY OIL RELATED INCOME AS SUBPART F**
20 **INCOME.**

21 (a) IN GENERAL.—Section 954(a) is amended by
22 striking paragraph (5), by striking the comma at the end
23 of paragraph (3) and inserting a period, and by inserting
24 “and” at the end of paragraph (2).

25 (b) CONFORMING AMENDMENTS.—

1 (1) Section 952(c)(1)(B)(iii) is amended by
2 striking subclause (I) and by redesignating sub-
3 clauses (II) through (V) as subclauses (I) through
4 (IV), respectively.

5 (2) Section 954(b)(4) is amended by striking
6 the last sentence.

7 (3) Section 954(b)(5) is amended by striking
8 “the foreign base company services income, and the
9 foreign base company oil related income” and insert-
10 ing “and the foreign base company services income”.

11 (4) Section 954(b) is amended by striking para-
12 graph (6).

13 (5) Section 954 is amended by striking sub-
14 section (g).

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to taxable years of foreign corpora-
17 tions beginning after December 31, 2017, and to taxable
18 years of United States shareholders in which or with which
19 such taxable years of foreign corporations end.

20 **SEC. 4203. INFLATION ADJUSTMENT OF DE MINIMIS EXCEP-**
21 **TION FOR FOREIGN BASE COMPANY INCOME.**

22 (a) IN GENERAL.—Section 954(b)(3) is amended by
23 adding at the end the following new subparagraph:

24 “(D) INFLATION ADJUSTMENT.—In the
25 case of any taxable year beginning after 2017,

1 the dollar amount in subparagraph (A)(ii) shall
2 be increased by an amount equal to—

3 “(i) such dollar amount, multiplied by

4 “(ii) the cost-of-living adjustment de-
5 termined under section 1(c)(2)(A) for the
6 calendar year in which the taxable year be-
7 gins.

8 Any increase determined under the preceding
9 sentence shall be rounded to the nearest mul-
10 tiple of \$50,000.”.

11 (b) **EFFECTIVE DATE.**—The amendments made by
12 this section shall apply to taxable years of foreign corpora-
13 tions beginning after December 31, 2017, and to taxable
14 years of United States shareholders in which or with which
15 such taxable years of foreign corporations end.

16 **SEC. 4204. LOOK-THRU RULE FOR RELATED CONTROLLED**
17 **FOREIGN CORPORATIONS MADE PERMA-**
18 **NENT.**

19 (a) **IN GENERAL.**—Paragraph (6) of section 954(c)
20 is amended by striking subparagraph (C).

21 (b) **EFFECTIVE DATE.**—The amendments made by
22 this section shall apply to taxable years of foreign corpora-
23 tions beginning after December 31, 2019, and to taxable
24 years of United States shareholders in which or with which
25 such taxable years of foreign corporations end.

1 **SEC. 4205. MODIFICATION OF STOCK ATTRIBUTION RULES**
2 **FOR DETERMINING STATUS AS A CON-**
3 **TROLLED FOREIGN CORPORATION.**

4 (a) **IN GENERAL.**—Section 958(b) is amended—

5 (1) by striking paragraph (4), and

6 (2) by striking “Paragraphs (1) and (4)” in the
7 last sentence and inserting “Paragraph (1)”.

8 (b) **APPLICATION OF CERTAIN REPORTING REQUIRE-**
9 **MENTS.**—Section 6038(e)(2) is amended by striking “ex-
10 cept that—” and all that follows through “in applying
11 subparagraph (C)” and inserting “except that in applying
12 subparagraph (C)”.

13 (c) **EFFECTIVE DATE.**—The amendments made by
14 this section shall apply to taxable years of foreign corpora-
15 tions beginning after December 31, 2017, and to taxable
16 years of United States shareholders in which or with which
17 such taxable years of foreign corporations end.

18 **SEC. 4206. ELIMINATION OF REQUIREMENT THAT COR-**
19 **PORATION MUST BE CONTROLLED FOR 30**
20 **DAYS BEFORE SUBPART F INCLUSIONS**
21 **APPLY.**

22 (a) **IN GENERAL.**—Section 951(a)(1) is amended by
23 striking “for an uninterrupted period of 30 days or more”
24 and inserting “at any time”.

25 (b) **EFFECTIVE DATE.**—The amendment made by
26 this section shall apply to taxable years of foreign corpora-

1 tions beginning after December 31, 2017, and to taxable
2 years of United States shareholders with or within which
3 such taxable years of foreign corporations end.

4 **Subtitle D—Prevention of Base**
5 **Erosion**

6 **SEC. 4301. CURRENT YEAR INCLUSION BY UNITED STATES**
7 **SHAREHOLDERS WITH FOREIGN HIGH RE-**
8 **TURNS.**

9 (a) IN GENERAL.—Subpart F of part III of sub-
10 chapter N of chapter 1 is amended by inserting after sec-
11 tion 951 the following new section:

12 **“SEC. 951A. FOREIGN HIGH RETURN AMOUNT INCLUDED IN**
13 **GROSS INCOME OF UNITED STATES SHARE-**
14 **HOLDERS.**

15 “(a) IN GENERAL.—Each person who is a United
16 States shareholder of any controlled foreign corporation
17 for any taxable year of such United States shareholder
18 shall include in gross income for such taxable year 50 per-
19 cent of such shareholder’s foreign high return amount for
20 such taxable year.

21 “(b) FOREIGN HIGH RETURN AMOUNT.—For pur-
22 poses of this section—

23 “(1) IN GENERAL.—The term ‘foreign high re-
24 turn amount’ means, with respect to any United

1 States shareholder for any taxable year of such
2 United States shareholder, the excess (if any) of—

3 “(A) such shareholder’s net CFC tested in-
4 come for such taxable year, over

5 “(B) the excess (if any) of—

6 “(i) the applicable percentage of the
7 aggregate of such shareholder’s pro rata
8 share of the qualified business asset invest-
9 ment of each controlled foreign corporation
10 with respect to which such shareholder is
11 a United States shareholder for such tax-
12 able year (determined for each taxable year
13 of each such controlled foreign corporation
14 which ends in or with such taxable year of
15 such United States shareholder), over

16 “(ii) the amount of interest expense
17 taken into account under subsection
18 (c)(2)(A)(ii) in determining the share-
19 holder’s net CFC tested income for the
20 taxable year.

21 “(2) APPLICABLE PERCENTAGE.—The term
22 ‘applicable percentage’ means, with respect to any
23 taxable year, the Federal short-term rate (deter-
24 mined under section 1274(d) for the month in which

1 or with which such taxable year ends) plus 7 per-
2 centage points.

3 “(c) NET CFC TESTED INCOME.—For purposes of
4 this section—

5 “(1) IN GENERAL.—The term ‘net CFC tested
6 income’ means, with respect to any United States
7 shareholder for any taxable year of such United
8 States shareholder, the excess (if any) of—

9 “(A) the aggregate of such shareholder’s
10 pro rata share of the tested income of each con-
11 trolled foreign corporation with respect to which
12 such shareholder is a United States shareholder
13 for such taxable year of such United States
14 shareholder (determined for each taxable year
15 of such controlled foreign corporation which
16 ends in or with such taxable year of such
17 United States shareholder), over

18 “(B) the aggregate of such shareholder’s
19 pro rata share of the tested loss of each con-
20 trolled foreign corporation with respect to which
21 such shareholder is a United States shareholder
22 for such taxable year of such United States
23 shareholder (determined for each taxable year
24 of such controlled foreign corporation which

1 ends in or with such taxable year of such
2 United States shareholder).

3 “(2) TESTED INCOME; TESTED LOSS.—For pur-
4 poses of this section—

5 “(A) TESTED INCOME.—The term ‘tested
6 income’ means, with respect to any controlled
7 foreign corporation for any taxable year of such
8 controlled foreign corporation, the excess (if
9 any) of—

10 “(i) the gross income of such corpora-
11 tion determined without regard to—

12 “(I) any item of income which is
13 effectively connected with the conduct
14 by such corporation of a trade or
15 business within the United States if
16 subject to tax under this chapter,

17 “(II) any gross income taken into
18 account in determining the subpart F
19 income of such corporation,

20 “(III) except as otherwise pro-
21 vided by the Secretary, any amount
22 excluded from the foreign personal
23 holding company income (as defined
24 in section 954) of such corporation by
25 reason of section 954(c)(6) but only

1 to the extent that any deduction al-
2 lowable for the payment or accrual of
3 such amount does not result in a re-
4 duction in the foreign high return
5 amount of any United States share-
6 holder (determined without regard to
7 this subclause),

8 “(IV) any gross income excluded
9 from the foreign personal holding
10 company income (as defined in section
11 954) of such corporation by reason of
12 subsection (h) or (i) of section 954,

13 “(V) any gross income excluded
14 from the insurance income (as defined
15 in section 953) of such corporation by
16 reason of section 953(a)(2),

17 “(VI) any gross income excluded
18 from foreign base company income (as
19 defined in section 954) or insurance
20 income (as defined in section 953) of
21 such corporation by reason of section
22 954(b)(4),

23 “(VII) any dividend received
24 from a related person (as defined in
25 section 954(d)(3)), and

1 “(VIII) any commodities gross
2 income of such corporation, over

3 “(ii) the deductions (including taxes)
4 properly allocable to such gross income
5 under rules similar to the rules of section
6 954(b)(5) (or which would be so properly
7 allocable if such corporation had such
8 gross income).

9 “(B) TESTED LOSS.—The term ‘tested
10 loss’ means, with respect to any controlled for-
11 eign corporation for any taxable year of such
12 controlled foreign corporation, the excess (if
13 any) of the amount described in subparagraph
14 (A)(ii) over the amount described in subpara-
15 graph (A)(i).

16 “(d) QUALIFIED BUSINESS ASSET INVESTMENT.—
17 For purposes of this section—

18 “(1) IN GENERAL.—The term ‘qualified busi-
19 ness asset investment’ means, with respect to any
20 controlled foreign corporation for any taxable year of
21 such controlled foreign corporation, the aggregate of
22 the corporation’s adjusted bases (determined as of
23 the close of such taxable year and after any adjust-
24 ments with respect to such taxable year) in specified
25 tangible property—

1 “(A) used in a trade or business of the
2 corporation, and

3 “(B) of a type with respect to which a de-
4 duction is allowable under section 168.

5 “(2) SPECIFIED TANGIBLE PROPERTY.—The
6 term ‘specified tangible property’ means any tangible
7 property to the extent such property is used in the
8 production of tested income or tested loss.

9 “(3) PARTNERSHIP PROPERTY.—For purposes
10 of this subsection, if a controlled foreign corporation
11 holds an interest in a partnership at the close of
12 such taxable year of the controlled foreign corpora-
13 tion, such controlled foreign corporation shall take
14 into account under paragraph (1) the controlled for-
15 eign corporation’s distributive share of the aggregate
16 of the partnership’s adjusted bases (determined as
17 of such date in the hands of the partnership) in tan-
18 gible property held by such partnership to the extent
19 such property—

20 “(A) is used in the trade or business of the
21 partnership, and

22 “(B) is used in the production of tested in-
23 come or tested loss (determined with respect to
24 such controlled foreign corporation’s distribu-

1 tive share of income or loss with respect to such
2 property).

3 For purposes of this paragraph, the controlled for-
4 foreign corporation's distributive share of the adjusted
5 basis of any property shall be the controlled foreign
6 corporation's distributive share of income and loss
7 with respect to such property.

8 “(4) DETERMINATION OF ADJUSTED BASIS.—

9 For purposes of this subsection, the adjusted basis
10 in any property shall be determined without regard
11 to any provision of this title (or any other provision
12 of law) which is enacted after the date of the enact-
13 ment of this section.

14 “(5) REGULATIONS.—The Secretary shall issue
15 such regulations or other guidance as the Secretary
16 determines appropriate to prevent the avoidance of
17 the purposes of this subsection, including regulations
18 or other guidance which provide for the treatment of
19 property if—

20 “(A) such property is transferred, or held,
21 temporarily, or

22 “(B) the avoidance of the purposes of this
23 paragraph is a factor in the transfer or holding
24 of such property.

1 “(e) COMMODITIES GROSS INCOME.—For purposes
2 of this section—

3 “(1) COMMODITIES GROSS INCOME.—The term
4 ‘commodities gross income’ means, with respect to
5 any corporation, the gross income of such corpora-
6 tion from the disposition of commodities which are
7 produced or extracted by such corporation.

8 “(2) COMMODITY.—The term ‘commodity’
9 means any commodity described in section
10 475(e)(2)(A) or section 475(e)(2)(D) (determined
11 without regard to clause (i) thereof and by sub-
12 stituting ‘a commodity described in subparagraph
13 (A)’ for ‘such a commodity’ in clause (ii) thereof).

14 “(f) TAXABLE YEARS FOR WHICH PERSONS ARE
15 TREATED AS UNITED STATES SHAREHOLDERS OF CON-
16 TROLLED FOREIGN CORPORATIONS.—For purposes of
17 this section—

18 “(1) IN GENERAL.—A United States share-
19 holder of a controlled foreign corporation shall be
20 treated as a United States shareholder of such con-
21 trolled foreign corporation for any taxable year of
22 such United States shareholder if—

23 “(A) a taxable year of such controlled for-
24 eign corporation ends in or with such taxable
25 year of such person, and

1 “(B) such person owns (within the mean-
2 ing of section 958(a)) stock in such controlled
3 foreign corporation on the last day, in such tax-
4 able year of such foreign corporation, on which
5 the foreign corporation is a controlled foreign
6 corporation.

7 “(2) TREATMENT AS A CONTROLLED FOREIGN
8 CORPORATION.—Except for purposes of paragraph
9 (1)(B) and the application of section 951(a)(2) to
10 this section pursuant to subsection (g), a foreign
11 corporation shall be treated as a controlled foreign
12 corporation for any taxable year of such foreign cor-
13 poration if such foreign corporation is a controlled
14 foreign corporation at any time during such taxable
15 year.

16 “(g) DETERMINATION OF PRO RATA SHARE.—For
17 purposes of this section, the pro rata shares referred to
18 in subsections (b)(2), (c)(1)(A), (c)(1)(B), and
19 (c)(2)(B)(ii), respectively, shall be determined under the
20 rules of section 951(a)(2) in the same manner as such sec-
21 tion applies to subpart F income.

22 “(h) COORDINATION WITH SUBPART F.—

23 “(1) TREATMENT AS SUBPART F INCOME FOR
24 CERTAIN PURPOSES.—Except as otherwise provided
25 by the Secretary any foreign high return amount in-

1 included in gross income under subsection (a) shall be
2 treated in the same manner as an amount included
3 under section 951(a)(1)(A) for purposes of applying
4 sections 168(h)(2)(B), 535(b)(10), 851(b),
5 904(h)(1), 959, 961, 962(c), 962(d), 993(a)(1)(E),
6 996(f)(1), 1248(b)(1), 1248(d)(1), 6501(e)(1)(C),
7 6654(d)(2)(D), and 6655(e)(4).

8 “(2) ENTIRE FOREIGN HIGH RETURN AMOUNT
9 TAKEN INTO ACCOUNT FOR PURPOSES OF CERTAIN
10 SECTIONS.—For purposes of applying paragraph (1)
11 with respect to sections 168(h)(2)(B), 851(b), 959,
12 961, 962(c), 962(d), 1248(b)(1), and 1248(d)(1),
13 the foreign high return amount included in gross in-
14 come under subsection (a) shall be determined by
15 substituting ‘100 percent’ for ‘50 percent’ in such
16 subsection.

17 “(3) ALLOCATION OF FOREIGN HIGH RETURN
18 AMOUNT TO CONTROLLED FOREIGN CORPORA-
19 TIONS.—For purposes of the sections referred to in
20 paragraph (1), with respect to any controlled foreign
21 corporation any pro rata amount from which is
22 taken into account in determining the foreign high
23 return amount included in gross income of a United
24 States shareholder under subsection (a), the portion
25 of such foreign high return amount which is treated

1 as being with respect to such controlled foreign cor-
2 poration is—

3 “(A) in the case of a controlled foreign
4 corporation with tested loss, zero, and

5 “(B) in the case of a controlled foreign
6 corporation with tested income, the portion of
7 such foreign high return amount which bears
8 the same ratio to such foreign high return
9 amount as—

10 “(i) such United States shareholder’s
11 pro rata amount of the tested income of
12 such controlled foreign corporation, bears
13 to

14 “(ii) the aggregate amount deter-
15 mined under subsection (c)(1)(A) with re-
16 spect to such United States shareholder.

17 “(4) COORDINATION WITH SUBPART F TO DENY
18 DOUBLE BENEFIT OF LOSSES.—In the case of any
19 United States shareholder of any controlled foreign
20 corporation, the amount included in gross income
21 under section 951(a)(1)(A) shall be determined by
22 increasing the earnings and profits of such con-
23 trolled foreign corporation (solely for purposes of de-
24 termining such amount) by an amount that bears
25 the same ratio (not greater than 1) to such share-

1 holder's pro rata share of the tested loss of such
2 controlled foreign corporation as—

3 “(A) the aggregate amount determined
4 under subsection (e)(1)(A) with respect to such
5 shareholder, bears to

6 “(B) the aggregate amount determined
7 under subsection (e)(1)(B) with respect to such
8 shareholder.”.

9 (b) FOREIGN TAX CREDIT.—

10 (1) APPLICATION OF DEEMED PAID FOREIGN
11 TAX CREDIT.—Section 960, as amended by the pre-
12 ceding provisions of this Act, is amended by redesign-
13 ating subsections (d) and (e) as subsections (e) and
14 (f), respectively, and by inserting after subsection (c)
15 the following new subsection:

16 “(d) DEEMED PAID CREDIT FOR TAXES PROPERLY
17 ATTRIBUTABLE TO TESTED INCOME.—

18 “(1) IN GENERAL.—For purposes of this sub-
19 part, if any amount is includible in the gross income
20 of a domestic corporation under section 951A, such
21 domestic corporation shall be deemed to have paid
22 foreign income taxes equal to 80 percent of—

23 “(A) such domestic corporation's foreign
24 high return percentage, multiplied by

1 “(B) the aggregate tested foreign income
2 taxes paid or accrued by controlled foreign cor-
3 porations with respect to which such domestic
4 corporation is a United States shareholder.

5 “(2) FOREIGN HIGH RETURN PERCENTAGE.—
6 For purposes of paragraph (1), the term ‘foreign
7 high return percentage’ means, with respect to any
8 domestic corporation, the ratio (expressed as a per-
9 centage) of—

10 “(A) such corporation’s foreign high return
11 amount (as defined in section 951A(b)), divided
12 by

13 “(B) the aggregate amount determined
14 under section 951A(c)(1)(A) with respect to
15 such corporation.

16 “(3) TESTED FOREIGN INCOME TAXES.—For
17 purposes of paragraph (1), the term ‘tested foreign
18 income taxes’ means, with respect to any domestic
19 corporation which is a United States shareholder of
20 a controlled foreign corporation, the foreign income
21 taxes paid or accrued by such foreign corporation
22 which are properly attributable to gross income de-
23 scribed in section 951A(c)(2)(A)(i).”.

24 (2) APPLICATION OF FOREIGN TAX CREDIT
25 LIMITATION.—

1 (A) SEPARATE BASKET FOR FOREIGN
2 HIGH RETURN AMOUNT.—Section 904(d)(1) is
3 amended by redesignating subparagraphs (A)
4 and (B) as subparagraphs (B) and (C), respec-
5 tively, and by inserting before subparagraph
6 (B) (as so redesignated) the following new sub-
7 paragraph:

8 “(A) any amount includible in gross in-
9 come under section 951A,”.

10 (B) NO CARRYOVER OF EXCESS TAXES.—
11 Section 904(c) is amended by adding at the end
12 the following: “This subsection shall not apply
13 to taxes paid or accrued with respect to
14 amounts described in subsection (d)(1)(A).”

15 (3) GROSS UP FOR DEEMED PAID FOREIGN TAX
16 CREDIT.—Section 78, as amended by the preceding
17 provisions of this Act, is amended—

18 (A) by striking “any taxable year, an
19 amount” and inserting “any taxable year—
20 “(1) an amount”, and

21 (B) by striking the period at the end and
22 inserting “, and

23 “(2) an amount equal to the taxes deemed to
24 be paid by such corporation under section 960(d) for
25 such taxable year (determined by substituting ‘100

1 percent' for '80 percent' in such section) shall be
2 treated for purposes of this title (other than sections
3 959, 960, and 961) as an increase in the foreign
4 high return amount of such domestic corporation
5 under section 951A for such taxable year.”.

6 (c) CONFORMING AMENDMENTS.—

7 (1) Section 170(b)(2)(D) is amended by strik-
8 ing “computed without regard to” and all that fol-
9 lows and inserting “computed—

10 “(i) without regard to—

11 “(I) this section,

12 “(II) part VIII (except section
13 248),

14 “(III) any net operating loss
15 carryback to the taxable year under
16 section 172,

17 “(IV) any capital loss carryback
18 to the taxable year under section
19 1212(a)(1), and

20 “(ii) by substituting ‘100 percent’ for
21 ‘50 percent’ in section 951A(a).”.

22 (2) Section 246(b)(1) is amended by—

23 (A) striking “and without regard to” and
24 inserting “without regard to”, and

1 (B) by striking the period at the end and
2 inserting “, and by substituting ‘100 percent’
3 for ‘50 percent’ in section 951A(a).”.

4 (3) Section 469(i)(3)(F) is amended by striking
5 “determined without regard to” and all that follows
6 and inserting “determined—

7 “(i) without regard to—

8 “(I) any amount includible in
9 gross income under section 86,

10 “(II) the amounts allowable as a
11 deduction under section 219, and

12 “(III) any passive activity loss or
13 any loss allowable by reason of sub-
14 section (c)(7), and

15 “(ii) by substituting ‘100 percent’ for
16 ‘50 percent’ in section 951A(a).”.

17 (4) Section 856(c)(2) is amended by striking
18 “and” at the end of subparagraph (H), by adding
19 “and” at the end of subparagraph (I), and by insert-
20 ing after subparagraph (I) the following new sub-
21 paragraph:

22 “(J) amounts includible in gross income
23 under section 951A(a);”.

24 (5) Section 856(c)(3)(D) is amended by strik-
25 ing “dividends or other distributions on, and gain”

1 and inserting “dividends, other distributions on,
2 amounts includible in gross income under section
3 951A(a) with respect to, and gain”.

4 (6) The table of sections for subpart F of part
5 III of subchapter N of chapter 1 is amended by in-
6 serting after the item relating to section 951 the fol-
7 lowing new item:

“Sec. 951A. Foreign high return amount included in gross income of United
States shareholders.”.

8 (d) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to taxable years of foreign corpora-
10 tions beginning after December 31, 2017, and to taxable
11 years of United States shareholders in which or with which
12 such taxable years of foreign corporations end.

13 **SEC. 4302. LIMITATION ON DEDUCTION OF INTEREST BY**
14 **DOMESTIC CORPORATIONS WHICH ARE MEM-**
15 **BERS OF AN INTERNATIONAL FINANCIAL RE-**
16 **PORTING GROUP.**

17 (a) IN GENERAL.—Section 163 is amended by redес-
18 ignating subsection (n) as subsection (p) and by inserting
19 after subsection (m) the following new subsection:

20 “(n) LIMITATION ON DEDUCTION OF INTEREST BY
21 DOMESTIC CORPORATIONS IN INTERNATIONAL FINAN-
22 CIAL REPORTING GROUPS.—

23 “(1) IN GENERAL.—In the case of any domestic
24 corporation which is a member of any international

1 financial reporting group, the deduction under this
2 chapter for interest paid or accrued during the tax-
3 able year shall not exceed the sum of—

4 “(A) the allowable percentage of 110 per-
5 cent of the excess (if any) of—

6 “(i) the amount of such interest so
7 paid or accrued, over

8 “(ii) the amount described in subpara-
9 graph (B), plus

10 “(B) the amount of interest includible in
11 gross income of such corporation for such tax-
12 able year.

13 “(2) INTERNATIONAL FINANCIAL REPORTING
14 GROUP.—

15 “(A) For purposes of this subsection, the
16 term ‘international financial reporting group’
17 means, with respect to any reporting year, any
18 group of entities which—

19 “(i) includes—

20 “(I) at least one foreign corpora-
21 tion engaged in a trade or business
22 within the United States, or

23 “(II) at least one domestic cor-
24 poration and one foreign corporation,

1 “(ii) prepares consolidated financial
2 statements with respect to such year, and

3 “(iii) reports in such statements aver-
4 age annual gross receipts (determined in
5 the aggregate with respect to all entities
6 which are part of such group) for the 3-re-
7 porting-year period ending with such re-
8 porting year in excess of \$100,000,000.

9 “(B) RULES RELATING TO DETERMINA-
10 TION OF AVERAGE GROSS RECEIPTS.—For pur-
11 poses of subparagraph (A)(iii), rules similar to
12 the rules of section 448(c)(3) shall apply.

13 “(3) ALLOWABLE PERCENTAGE.—For purposes
14 of this subsection—

15 “(A) IN GENERAL.—The term ‘allowable
16 percentage’ means, with respect to any domestic
17 corporation for any taxable year, the ratio (ex-
18 pressed as a percentage and not greater than
19 100 percent) of—

20 “(i) such corporation’s allocable share
21 of the international financial reporting
22 group’s reported net interest expense for
23 the reporting year of such group which
24 ends in or with such taxable year of such
25 corporation, over

1 “(ii) such corporation’s reported net
2 interest expense for such reporting year of
3 such group.

4 “(B) REPORTED NET INTEREST EX-
5 PENSE.—The term ‘reported net interest ex-
6 pense’ means—

7 “(i) with respect to any international
8 financial reporting group for any reporting
9 year, the excess of—

10 “(I) the aggregate amount of in-
11 terest expense reported in such
12 group’s consolidated financial state-
13 ments for such taxable year, over

14 “(II) the aggregate amount of in-
15 terest income reported in such group’s
16 consolidated financial statements for
17 such taxable year, and

18 “(ii) with respect to any domestic cor-
19 poration for any reporting year, the excess
20 of—

21 “(I) the amount of interest ex-
22 pense of such corporation reported in
23 the books and records of the inter-
24 national financial reporting group
25 which are used in preparing such

1 group's consolidated financial state-
2 ments for such taxable year, over

3 “(II) the amount of interest in-
4 come of such corporation reported in
5 such books and records.

6 “(C) ALLOCABLE SHARE OF REPORTED
7 NET INTEREST EXPENSE.—With respect to any
8 domestic corporation which is a member of any
9 international financial reporting group, such
10 corporation's allocable share of such group's re-
11 ported net interest expense for any reporting
12 year is the portion of such expense which bears
13 the same ratio to such expense as—

14 “(i) the EBITDA of such corporation
15 for such reporting year, bears to

16 “(ii) the EBITDA of such group for
17 such reporting year.

18 “(D) EBITDA.—

19 “(i) IN GENERAL.—The term
20 ‘EBITDA’ means, with respect to any re-
21 porting year, earnings before interest,
22 taxes, depreciation, and amortization—

23 “(I) as determined in the inter-
24 national financial reporting group's

1 consolidated financial statements for
2 such year, or

3 “(II) for purposes of subpara-
4 graph (A)(i), as determined in the
5 books and records of the international
6 financial reporting group which are
7 used in preparing such statements if
8 not determined in such statements.

9 “(ii) TREATMENT OF DISREGARDED
10 ENTITIES.—The EBITDA of any domestic
11 corporation shall not fail to include the
12 EBITDA of any entity which is dis-
13 regarded for purposes of this chapter.

14 “(iii) TREATMENT OF INTRA-GROUP
15 DISTRIBUTIONS.—The EBITDA of any do-
16 mestic corporation shall be determined
17 without regard to any distribution received
18 by such corporation from any other mem-
19 ber of the international financial reporting
20 group.

21 “(E) SPECIAL RULES FOR NON-POSITIVE
22 EBITDA.—

23 “(i) NON-POSITIVE GROUP EBITDA.—
24 In the case of any international financial
25 reporting group the EBITDA of which is

1 zero or less, paragraph (1) shall not apply
2 to any member of such group the EBITDA
3 of which is above zero.

4 “(ii) NON-POSITIVE ENTITY
5 EBITDA.—In the case of any group mem-
6 ber the EBITDA of which is zero or less,
7 paragraph (1) shall be applied without re-
8 gard to subparagraph (A) thereof.

9 “(4) CONSOLIDATED FINANCIAL STATEMENT.—
10 For purposes of this subsection, the term ‘consoli-
11 dated financial statement’ means any consolidated
12 financial statement described in paragraph (2)(A)(ii)
13 if such statement is—

14 “(A) a financial statement which is cer-
15 tified as being prepared in accordance with gen-
16 erally accepted accounting principles, inter-
17 national financial reporting standards, or any
18 other comparable method of accounting identi-
19 fied by the Secretary, and which is—

20 “(i) a 10-K (or successor form), or
21 annual statement to shareholders, required
22 to be filed with the United States Securi-
23 ties and Exchange Commission,

24 “(ii) an audited financial statement
25 which is used for—

1 “(I) credit purposes,

2 “(II) reporting to shareholders,
3 partners, or other proprietors, or to
4 beneficiaries, or

5 “(III) any other substantial
6 nontax purpose,

7 but only if there is no statement described
8 in clause (i), or

9 “(iii) filed with any other Federal or
10 State agency for nontax purposes, but only
11 if there is no statement described in clause
12 (i) or (ii), or

13 “(B) a financial statement which—

14 “(i) is used for a purpose described in
15 subclause (I), (II), or (III) of subpara-
16 graph (A)(ii), or

17 “(ii) filed with any regulatory or gov-
18 ernmental body (whether domestic or for-
19 eign) specified by the Secretary,

20 but only if there is no statement described in
21 subparagraph (A).

22 “(5) REPORTING YEAR.—For purposes of this
23 subsection, the term ‘reporting year’ means, with re-
24 spect to any international financial reporting group,

1 the year with respect to which the consolidated fi-
2 nancial statements are prepared.

3 “(6) APPLICATION TO CERTAIN ENTITIES.—

4 “(A) PARTNERSHIPS.—Except as other-
5 wise provided by the Secretary in paragraph
6 (8), this subsection shall apply to any partner-
7 ship which is a member of any international fi-
8 nancial reporting group under rules similar to
9 the rules of section 163(j)(3).

10 “(B) FOREIGN CORPORATIONS ENGAGED
11 IN TRADE OR BUSINESS WITHIN THE UNITED
12 STATES.—Except as otherwise provided by the
13 Secretary in paragraph (8), any deduction for
14 interest paid or accrued by a foreign corpora-
15 tion engaged in a trade or business within the
16 United States shall be limited in a manner con-
17 sistent with the principles of this subsection.

18 “(C) CONSOLIDATED GROUPS.—For pur-
19 poses of this subsection, the members of any
20 group that file (or are required to file) a con-
21 solidated return with respect to the tax imposed
22 by chapter 1 for a taxable year shall be treated
23 as a single corporation.

24 “(7) REGULATIONS.—The Secretary may issue
25 such regulations or other guidance as are necessary

1 or appropriate to carry out the purposes of this sub-
2 section.”.

3 (b) CARRYFORWARD OF DISALLOWED INTEREST.—

4 (1) IN GENERAL.—Section 163(o) is amended
5 to read as follows:

6 “(o) CARRYFORWARD OF CERTAIN DISALLOWED IN-
7 TEREST.—The amount of any interest not allowed as a
8 deduction for any taxable year by reason of subsection
9 (j)(1) or (n)(1) (whichever imposes the lower limitation
10 with respect to such taxable year) shall be treated as inter-
11 est (and as business interest for purposes of subsection
12 (j)(1)) paid or accrued in the succeeding taxable year. In-
13 terest paid or accrued in any taxable year (determined
14 without regard to the preceding sentence) shall not be car-
15 ried past the 5th taxable year following such taxable year,
16 determined by treating interest as allowed as a deduction
17 on a first-in, first-out basis.”.

18 (2) TREATMENT OF CARRYFORWARD OF DIS-
19 ALLOWED INTEREST IN CERTAIN CORPORATE ACQUI-
20 SITIONS.—For rules related to the carryforward of
21 disallowed interest in certain corporate acquisitions,
22 see the amendments made by section 3301(c).

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to taxable years beginning after
25 December 31, 2017.

1 **SEC. 4303. EXCISE TAX ON CERTAIN PAYMENTS FROM DO-**
 2 **MESTIC CORPORATIONS TO RELATED FOR-**
 3 **EIGN CORPORATIONS; ELECTION TO TREAT**
 4 **SUCH PAYMENTS AS EFFECTIVELY CON-**
 5 **NECTED INCOME.**

6 (a) EXCISE TAX ON CERTAIN AMOUNTS FROM DO-
 7 MESTIC CORPORATIONS TO FOREIGN AFFILIATES.—

8 (1) IN GENERAL.—Chapter 36 is amended by
 9 adding at the end the following new subchapter:

10 **“Subchapter E—Tax on Certain Amounts to**
 11 **Foreign Affiliates**

“Sec. 4491. Imposition of tax on certain amounts from domestic corporations to foreign affiliates.

12 **“SEC. 4491. IMPOSITION OF TAX ON CERTAIN AMOUNTS**
 13 **FROM DOMESTIC CORPORATIONS TO FOR-**
 14 **EIGN AFFILIATES.**

15 “(a) IN GENERAL.—There is hereby imposed on each
 16 specified amount paid or incurred by a domestic corpora-
 17 tion to a foreign corporation which is a member of the
 18 same international financial reporting group as such do-
 19 mestic corporation a tax equal to the highest rate of tax
 20 in effect under section 11 multiplied by such amount.

21 “(b) BY WHOM PAID.—The tax imposed by sub-
 22 section (a) shall be paid by the domestic corporation de-
 23 scribed in such subsection.

1 “(c) EXCEPTION FOR EFFECTIVELY CONNECTED IN-
2 COME.—Subsection (a) shall not apply to so much of any
3 specified amount as is effectively connected with the con-
4 duct of a trade or business within the United States if
5 such amount is subject to tax under chapter 1. In the case
6 of any amount which is treated as effectively connected
7 with the conduct of a trade or business within the United
8 States by reason of section 882(g), the preceding sentence
9 shall apply to such amount only if the domestic corpora-
10 tion provides to the Secretary (at such time and in such
11 form and manner as the Secretary may provide) a copy
12 of the election made under section 882(g) by the foreign
13 corporation referred to in subsection (a).

14 “(d) DEFINITIONS AND SPECIAL RULES.—Terms
15 used in this section that are also used in section 882(g)
16 shall have the same meaning as when used in such section
17 and rules similar to the rules of paragraphs (5) and (6)
18 of such section shall apply for purposes of this section.”.

19 (2) DENIAL OF DEDUCTION FOR TAX IM-
20 POSED.—Section 275(a) is amended by inserting
21 after paragraph (6) the following new paragraph:

22 “(7) Taxes imposed by section 4491.”.

23 (3) CLERICAL AMENDMENT.—The table of sub-
24 chapters for chapter 36 is amended by adding at the
25 end the following new item:

“SUBCHAPTER E. TAX ON CERTAIN AMOUNTS TO FOREIGN AFFILIATES.”.

1 (b) ELECTION TO TREAT CERTAIN PAYMENTS FROM
2 DOMESTIC CORPORATIONS TO RELATED FOREIGN COR-
3 PORATIONS AS EFFECTIVELY CONNECTED INCOME.—Sec-
4 tion 882 is amended by adding at the end the following
5 new subsection:

6 “(g) ELECTION TO TREAT CERTAIN PAYMENTS
7 FROM DOMESTIC CORPORATIONS TO RELATED FOREIGN
8 CORPORATIONS AS EFFECTIVELY CONNECTED INCOME.—

9 “(1) IN GENERAL.—In the case of any specified
10 amount paid or incurred by a domestic corporation
11 to a foreign corporation which is a member of the
12 same international financial reporting group as such
13 domestic corporation and which has elected to be
14 subject to the provisions of this subsection—

15 “(A) such amount shall be taken into ac-
16 count (other than for purposes of sections 245,
17 245A, and 881) as if such foreign corporation
18 were engaged in a trade or business within the
19 United States and had a permanent establish-
20 ment in the United States during the taxable
21 year and as if such payment were effectively
22 connected with the conduct of a trade or busi-
23 ness within the United States and were attrib-
24 utable to such permanent establishment,

1 “(B) for purposes of subsection (c)(1)(A),
2 no deduction shall be allowed with respect to
3 such amount and such subsection shall be ap-
4 plied without regard to such amount, and

5 “(C) there shall be allowed as a deduction
6 the deemed expenses with respect such amount.

7 “(2) SPECIFIED AMOUNT.—For purposes of
8 this subsection—

9 “(A) IN GENERAL.—The term ‘specified
10 amount’ means any amount which is, with re-
11 spect to the payor, allowable as a deduction or
12 includible in costs of goods sold, inventory, or
13 the basis of a depreciable or amortizable asset.

14 “(B) EXCEPTIONS.—The term ‘specified
15 amount’ shall not include—

16 “(i) interest,

17 “(ii) any amount paid or incurred for
18 the acquisition of any commodity described
19 in section 475(e)(2)(A) or section
20 475(e)(2)(D) (determined without regard
21 to subclause (i) thereof),

22 “(iii) except as provided in subpara-
23 graph (C), any amount with respect to
24 which tax is imposed under section 881(a),
25 and

1 “(iv) in the case of a payor which has
2 elected to use a services cost method for
3 purposes of section 482, any amount paid
4 or incurred for services if such amount is
5 the total services cost with no markup.

6 “(C) AMOUNTS TREATED AS EFFECTIVELY
7 CONNECTED TO EXTENT OF GROSS-BASIS
8 TAX.—Subparagraph (B)(iii) shall not apply to
9 any specified amount to the extent of the same
10 proportion of such amount as—

11 “(i) the rate of tax imposed under
12 section 881(a) with respect to such
13 amount, bears to

14 “(ii) 30 percent.

15 “(3) DEEMED EXPENSES.—

16 “(A) IN GENERAL.—The deemed expenses
17 with respect to any specified amount received
18 by a foreign corporation during any reporting
19 year is the amount of expenses such that the
20 net income ratio of such foreign corporation
21 with respect to such amount (taking into ac-
22 count only such deemed expenses) is equal to
23 the net income ratio of the international finan-
24 cial reporting group determined for such report-

1 ing year with respect to the product line to
2 which the specified amount relates.

3 “(B) NET INCOME RATIO.—For purposes
4 of this paragraph, the term ‘net income ratio’
5 means the ratio of—

6 “(i) net income determined without
7 regard to interest income, interest expense,
8 and income taxes, divided by

9 “(ii) revenues.

10 “(C) METHOD OF DETERMINATION.—
11 Amounts described in subparagraph (B) shall
12 be determined on the basis of the consolidated
13 financial statements referred to in paragraph
14 (5)(A)(i) and the book and records of the mem-
15 bers of the internal financial reporting group
16 which are used in preparing such statements.

17 “(4) INTERNATIONAL FINANCIAL REPORTING
18 GROUP.—For purposes of this subsection—

19 “(A) IN GENERAL.—The term ‘inter-
20 national financial reporting group’ means any
21 group of entities, with respect to any specified
22 amount, if such amount is paid or incurred dur-
23 ing a reporting year of such group with respect
24 to which—

1 “(i) such group prepares consolidated
2 financial statements (within the meaning
3 of section 163(n)(4)) with respect to such
4 year, and

5 “(ii) the average annual aggregate
6 payment amount of such group for the 3-
7 reporting-year period ending with such re-
8 porting year exceeds \$100,000,000.

9 “(B) ANNUAL AGGREGATE PAYMENT
10 AMOUNT.—The term ‘annual aggregate pay-
11 ment amount’ means, with respect to any re-
12 porting year of the group referred to in sub-
13 paragraph (A)(i), the aggregate specified
14 amounts to which paragraph (1) applies (or
15 would apply if such group were an international
16 financial reporting group).

17 “(C) APPLICATION OF CERTAIN RULES.—
18 Rules similar to the rules of subparagraphs (A),
19 (B), and (D) of section 448(c)(3) shall apply
20 for purposes of this paragraph.

21 “(5) TREATMENT OF PARTNERSHIPS.—Any
22 specified amount paid, incurred, or received by a
23 partnership which is a member of any international
24 financial reporting group (and any amount treated
25 as paid, incurred, or received by a partnership under

1 this paragraph) shall be treated for purposes of this
2 subsection as amounts paid, incurred, or received,
3 respectively, by each partner of such partnership in
4 an amount equal to such partner's distributive share
5 of the items of income, gain, deduction, or loss to
6 which such amounts relate.

7 “(6) TREATMENT OF AMOUNTS IN CONNECTION
8 WITH UNITED STATES TRADE OR BUSINESS.—Any
9 specified amount paid, incurred, or received by a for-
10 eign corporation in connection with the conduct of a
11 trade or business within the United States (other
12 than a trade or business it is deemed to conduct
13 pursuant to this subsection) shall be treated for pur-
14 poses of this subsection as an amount paid, in-
15 curred, or received, respectively, by a domestic cor-
16 poration. For purposes of the preceding sentence, a
17 foreign corporation shall be deemed to pay, incur,
18 and receive amounts with respect to a trade or busi-
19 ness it conducts within the United States (other
20 than a trade or business it is deemed to conduct
21 pursuant to this subsection) to the extent such for-
22 eign corporation would be treated as paying, incur-
23 ring, or receiving such amounts from such trade or
24 business if such trade or business were a domestic
25 corporation.

1 “(7) JOINT AND SEVERAL LIABILITY OF MEM-
2 BERS OF INTERNAL FINANCIAL REPORTING
3 GROUP.—In the case of any underpayment with re-
4 spect to any taxable year of a foreign corporation
5 which is a member of an international financial ac-
6 counting group, each domestic corporation which is
7 a member of such group at any time during such
8 taxable year shall be jointly and severally liable
9 for—

10 “(A) so much of such underpayment as
11 does not exceed the excess (if any) of such un-
12 derpayment over the amount of such under-
13 derpayment determined without regard to this sub-
14 section, and

15 “(B) any penalty, addition to tax, or addi-
16 tional amount attributable to the amount de-
17 scribed in subparagraph (A).

18 “(8) DISALLOWANCE OF FOREIGN TAX CREDIT,
19 ETC.—

20 “(A) IN GENERAL.—No credit shall be al-
21 lowed under section 901 for any taxes paid or
22 accrued (or treated as paid or accrued) with re-
23 spect to any specified amount to which para-
24 graph (1) applies.

1 “(B) DENIAL OF DEDUCTION.—No deduc-
2 tion shall be allowed under this chapter for any
3 tax for which credit is not allowable under sec-
4 tion 901 by reason of paragraph (1) (deter-
5 mined by treating the taxpayer as having elect-
6 ed the benefits of subpart A of part III of sub-
7 chapter N).

8 “(9) RULES RELATED TO ELECTION.—Any
9 election under paragraph (1) shall—

10 “(A) be made at such time and in such
11 form and manner as the Secretary may provide,
12 and

13 “(B) apply for the taxable year for which
14 made and all subsequent taxable years unless
15 revoked with the consent of the Secretary.

16 “(10) REGULATIONS.—The Secretary may issue
17 such regulations or other guidance as are necessary
18 or appropriate to carry out the purposes of this sub-
19 section, including regulations or other guidance—

20 “(A) to provide for the proper determina-
21 tion of product lines, and

22 “(B) to prevent the avoidance of the pur-
23 poses of this subsection through the use of con-
24 duit transactions or by other means.”.

25 (c) REPORTING REQUIREMENTS.—

1 (1) REPORTING BY FOREIGN CORPORATION.—

2 Section 6038C(b) is amended to read as follows:

3 “(b) REQUIRED INFORMATION.—

4 “(1) IN GENERAL.—The information described
5 in this subsection is—

6 “(A) the information described in section
7 6038A(b), and

8 “(B) such other information as the Sec-
9 retary may prescribe by regulations relating to
10 any item not directly connected with a trans-
11 action for which information is required under
12 subparagraph (A).

13 “(2) CERTAIN PAYMENTS FROM RELATED DO-
14 MESTIC CORPORATIONS.—

15 “(A) IN GENERAL.—In the case of any re-
16 porting corporation that receives during the
17 taxable year any amount to which section
18 882(g)(1) applies, the information described in
19 this subsection shall include, with respect to
20 each member of the international financial re-
21 porting group from which any such amount is
22 received—

23 “(i) the name and taxpayer identifica-
24 tion number of such member,

1 “(ii) the aggregate amounts received
2 from such member,

3 “(iii) the product lines to which such
4 amounts relate, the aggregate amounts re-
5 lating to each such product line, and the
6 net income ratio for each such product line
7 (determined under section 882(g)(3)(B)
8 with respect to the international financial
9 reporting group), and

10 “(iv) a summary of any changes in fi-
11 nancial accounting methods that affect the
12 computation of any net income ratio de-
13 scribed in clause (iii).

14 “(B) DEFINITIONS AND SPECIAL RULES.—
15 Terms used in this paragraph that are also
16 used in section 882(g) shall have the same
17 meaning as when used in such section and rules
18 similar to the rules of paragraphs (5) and (6)
19 of such section shall apply for purposes of this
20 paragraph.”.

21 (2) REPORTING BY DOMESTIC GROUP MEM-
22 BERS.—

23 (A) IN GENERAL .—Subpart A of part III
24 of subchapter A of chapter 61 is amended by

1 inserting after section 6038D the following new
2 section:

3 **“SEC. 6038E. INFORMATION WITH RESPECT TO CERTAIN**
4 **PAYMENTS FROM DOMESTIC CORPORATIONS**
5 **TO RELATED FOREIGN CORPORATIONS.**

6 “(a) IN GENERAL.—In the case of any domestic cor-
7 poration which pays or accrues any amount to which sec-
8 tion 882(g)(1) applies, such person shall—

9 “(1) make a return according to the forms and
10 regulations prescribed the Secretary, setting forth
11 the information described in subsection (b), and

12 “(2) maintain (at the location, in the manner,
13 and to the extent prescribed in regulations) such
14 records as may be appropriate to determine liability
15 for tax pursuant to paragraphs (1) and (7) of sec-
16 tion 882(g).

17 “(b) REQUIRED INFORMATION.—The information de-
18 scribed in this subsection is—

19 “(1) the name and taxpayer identification num-
20 ber of the common parent of the international finan-
21 cial reporting group in which such domestic corpora-
22 tion is a member, and

23 “(2) with respect to any person who receives an
24 amount described in subsection (a) from such do-
25 mestic corporation—

1 “(A) the name and taxpayer identification
2 number of such person,

3 “(B) the aggregate amounts received by
4 such person,

5 “(C) the product lines to which such
6 amounts relate, the aggregate amounts relating
7 to each such product line, and the net income
8 ratio for each such product line (determined
9 under section 882(g)(3)(B) with respect to the
10 international financial reporting group), and

11 “(D) a summary of any changes in finan-
12 cial accounting methods that affect the com-
13 putation of any net income ratios described in
14 subparagraph (C).

15 “(e) DEFINITIONS AND SPECIAL RULES.—Terms
16 used in this paragraph that are also used in section 882(g)
17 shall have the same meaning as when used in such section
18 and rules similar to the rules of paragraphs (5) and (6)
19 of such section shall apply for purposes of this para-
20 graph.”.

21 (B) CLERICAL AMENDMENT.—The table of
22 sections for subpart A of part III of subchapter
23 A of chapter 61 is amended by inserting after
24 the item relating to section 6038D the following
25 new item:

“Sec. 6038E. Information with respect to certain payments from domestic corporations to related foreign corporations.”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to amounts paid or accrued after
3 December 31, 2018.

4 **Subtitle E—Provisions Related to**
5 **Possessions of the United States**

6 **SEC. 4401. EXTENSION OF DEDUCTION ALLOWABLE WITH**
7 **RESPECT TO INCOME ATTRIBUTABLE TO DO-**
8 **MESTIC PRODUCTION ACTIVITIES IN PUERTO**
9 **RICO.**

10 (a) IN GENERAL.—Section 199(d)(8)(C), prior to its
11 repeal by this Act, is amended—

12 (1) by striking “first 11 taxable years” and in-
13 serting “first 12 taxable years”, and

14 (2) by striking “January 1, 2017” and insert-
15 ing “January 1, 2018”.

16 (b) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to taxable years beginning after
18 December 31, 2016.

19 **SEC. 4402. EXTENSION OF TEMPORARY INCREASE IN LIMIT**
20 **ON COVER OVER OF RUM EXCISE TAXES TO**
21 **PUERTO RICO AND THE VIRGIN ISLANDS.**

22 (a) IN GENERAL.—Section 7652(f)(1) is amended by
23 striking “January 1, 2017” and inserting “January 1,
24 2023”.

1 (b) EFFECTIVE DATE.—The amendment made by
 2 this section shall apply to distilled spirits brought into the
 3 United States after December 31, 2016.

4 **SEC. 4403. EXTENSION OF AMERICAN SAMOA ECONOMIC**
 5 **DEVELOPMENT CREDIT.**

6 (a) IN GENERAL.—Section 119(d) of division A of
 7 the Tax Relief and Health Care Act of 2006 is amended—

8 (1) by striking “January 1, 2017” each place
 9 it appears and inserting “January 1, 2023”,

10 (2) by striking “first 11 taxable years” in para-
 11 graph (1) and inserting “first 17 taxable years”,
 12 and

13 (3) by striking “first 5 taxable years” in para-
 14 graph (2) and inserting “first 11 taxable years”.

15 (b) EFFECTIVE DATE.—The amendments made by
 16 this section shall apply to taxable years beginning after
 17 December 31, 2016.

18 **Subtitle F—Other International**
 19 **Reforms**

20 **SEC. 4501. RESTRICTION ON INSURANCE BUSINESS EXCEP-**
 21 **TION TO PASSIVE FOREIGN INVESTMENT**
 22 **COMPANY RULES.**

23 (a) IN GENERAL.—Section 1297(b)(2)(B) is amend-
 24 ed to read as follows:

1 “(B) derived in the active conduct of an in-
2 surance business by a qualifying insurance cor-
3 poration (as defined in subsection (f)),”.

4 (b) QUALIFYING INSURANCE CORPORATION DE-
5 FINED.—Section 1297 is amended by adding at the end
6 the following new subsection:

7 “(f) QUALIFYING INSURANCE CORPORATION.—For
8 purposes of subsection (b)(2)(B)—

9 “(1) IN GENERAL.—The term ‘qualifying insur-
10 ance corporation’ means, with respect to any taxable
11 year, a foreign corporation—

12 “(A) which would be subject to tax under
13 subchapter L if such corporation were a domes-
14 tic corporation, and

15 “(B) the applicable insurance liabilities of
16 which constitute more than 25 percent of its
17 total assets, determined on the basis of such li-
18 abilities and assets as reported on the corpora-
19 tion’s applicable financial statement for the last
20 year ending with or within the taxable year.

21 “(2) ALTERNATIVE FACTS AND CIR-
22 CUMSTANCES TEST FOR CERTAIN CORPORATIONS.—
23 If a corporation fails to qualify as a qualified insur-
24 ance corporation under paragraph (1) solely because
25 the percentage determined under paragraph (1)(B)

1 is 25 percent or less, a United States person that
2 owns stock in such corporation may elect to treat
3 such stock as stock of a qualifying insurance cor-
4 poration if—

5 “(A) the percentage so determined for the
6 corporation is at least 10 percent, and

7 “(B) under regulations provided by the
8 Secretary, based on the applicable facts and cir-
9 cumstances—

10 “(i) the corporation is predominantly
11 engaged in an insurance business, and

12 “(ii) such failure is due solely to run-
13 off-related or rating-related circumstances
14 involving such insurance business.

15 “(3) APPLICABLE INSURANCE LIABILITIES.—

16 For purposes of this subsection—

17 “(A) IN GENERAL.—The term ‘applicable
18 insurance liabilities’ means, with respect to any
19 life or property and casualty insurance busi-
20 ness—

21 “(i) loss and loss adjustment ex-
22 penses, and

23 “(ii) reserves (other than deficiency,
24 contingency, or unearned premium re-
25 serves) for life and health insurance risks

1 and life and health insurance claims with
2 respect to contracts providing coverage for
3 mortality or morbidity risks.

4 “(B) LIMITATIONS ON AMOUNT OF LIABIL-
5 ITIES.—Any amount determined under clause
6 (i) or (ii) of subparagraph (A) shall not exceed
7 the lesser of such amount—

8 “(i) as reported to the applicable in-
9 surance regulatory body in the applicable
10 financial statement described in paragraph
11 (4)(A) (or, if less, the amount required by
12 applicable law or regulation), or

13 “(ii) as determined under regulations
14 prescribed by the Secretary.

15 “(4) OTHER DEFINITIONS AND RULES.—For
16 purposes of this subsection—

17 “(A) APPLICABLE FINANCIAL STATE-
18 MENT.—The term ‘applicable financial state-
19 ment’ means a statement for financial reporting
20 purposes which—

21 “(i) is made on the basis of generally
22 accepted accounting principles,

23 “(ii) is made on the basis of inter-
24 national financial reporting standards, but

1 “(1) IN GENERAL.—In the case of any deduct-
2 ible related-party payment, any withholding tax im-
3 posed under chapter 3 (and any tax imposed under
4 subpart A or B of this part) with respect to such
5 payment may not be reduced under any treaty of the
6 United States unless any such withholding tax would
7 be reduced under a treaty of the United States if
8 such payment were made directly to the foreign par-
9 ent corporation.

10 “(2) DEDUCTIBLE RELATED-PARTY PAY-
11 MENT.—For purposes of this subsection, the term
12 ‘deductible related-party payment’ means any pay-
13 ment made, directly or indirectly, by any person to
14 any other person if the payment is allowable as a de-
15 duction under this chapter and both persons are
16 members of the same foreign controlled group of en-
17 tities.

18 “(3) FOREIGN CONTROLLED GROUP OF ENTI-
19 TIES.—For purposes of this subsection—

20 “(A) IN GENERAL.—The term ‘foreign
21 controlled group of entities’ means a controlled
22 group of entities the common parent of which
23 is a foreign corporation.

24 “(B) CONTROLLED GROUP OF ENTITIES.—
25 The term ‘controlled group of entities’ means a

1 controlled group of corporations as defined in
2 section 1563(a)(1), except that—

3 “(i) ‘more than 50 percent’ shall be
4 substituted for ‘at least 80 percent’ each
5 place it appears therein, and

6 “(ii) the determination shall be made
7 without regard to subsections (a)(4) and
8 (b)(2) of section 1563.

9 A partnership or any other entity (other than a
10 corporation) shall be treated as a member of a
11 controlled group of entities if such entity is con-
12 trolled (within the meaning of section
13 954(d)(3)) by members of such group (includ-
14 ing any entity treated as a member of such
15 group by reason of this sentence).

16 “(4) FOREIGN PARENT CORPORATION.—For
17 purposes of this subsection, the term ‘foreign parent
18 corporation’ means, with respect to any deductible
19 related-party payment, the common parent of the
20 foreign controlled group of entities referred to in
21 paragraph (3)(A).

22 “(5) REGULATIONS.—The Secretary may pre-
23 scribe such regulations or other guidance as are nec-
24 essary or appropriate to carry out the purposes of

1 this subsection, including regulations or other guid-
2 ance which provide for—

3 “(A) the treatment of two or more persons
4 as members of a foreign controlled group of en-
5 tities if such persons would be the common par-
6 ent of such group if treated as one corporation,
7 and

8 “(B) the treatment of any member of a
9 foreign controlled group of entities as the com-
10 mon parent of such group if such treatment is
11 appropriate taking into account the economic
12 relationships among such entities.”.

13 (b) EFFECTIVE DATE.—The amendment made by
14 this section shall apply to payments made after the date
15 of the enactment of this Act.

16 **TITLE V—EXEMPT**
17 **ORGANIZATIONS**
18 **Subtitle A—Unrelated Business**
19 **Income Tax**

20 **SEC. 5001. CLARIFICATION OF UNRELATED BUSINESS IN-**
21 **COME TAX TREATMENT OF ENTITIES TREAT-**
22 **ED AS EXEMPT FROM TAXATION UNDER SEC-**
23 **TION 501(a).**

24 (a) IN GENERAL.—Section 511 is amended by adding
25 at the end the following new subsection:

1 “(d) ORGANIZATIONS AND TRUSTS EXEMPT FROM
2 TAXATION NOT SOLELY BY REASON OF SECTION
3 501(a).—For purposes of subsections (a)(2) and (b)(2),
4 an organization or trust shall not fail to be treated as ex-
5 empt from taxation under this subtitle by reason of section
6 501(a) solely because such organization is also so exempt,
7 or excludes amounts from gross income, by reason of any
8 other provision of this title.”.

9 (b) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to taxable years beginning after
11 December 31, 2017.

12 **SEC. 5002. EXCLUSION OF RESEARCH INCOME LIMITED TO**
13 **PUBLICLY AVAILABLE RESEARCH.**

14 (a) IN GENERAL.—Section 512(b)(9) is amended by
15 striking “from research” and inserting “from such re-
16 search”.

17 (b) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to taxable years beginning after
19 December 31, 2017.

20 **Subtitle B—Excise Taxes**

21 **SEC. 5101. SIMPLIFICATION OF EXCISE TAX ON PRIVATE**
22 **FOUNDATION INVESTMENT INCOME.**

23 (a) RATE REDUCTION.—Section 4940(a) is amended
24 by striking “2 percent” and inserting “1.4 percent”.

1 (b) REPEAL OF SPECIAL RULES FOR CERTAIN PRI-
2 VATE FOUNDATIONS.—Section 4940 is amended by strik-
3 ing subsection (e).

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to taxable years beginning after
6 December 31, 2017.

7 **SEC. 5102. PRIVATE OPERATING FOUNDATION REQUIRE-**
8 **MENTS RELATING TO OPERATION OF ART**
9 **MUSEUM.**

10 (a) IN GENERAL.—Section 4942(j) is amended by
11 adding at the end the following new paragraph:

12 “(6) ORGANIZATION OPERATING ART MU-
13 SEUM.—For purposes of this section, the term ‘oper-
14 ating foundation’ shall not include an organization
15 which operates an art museum as a substantial ac-
16 tivity unless such museum is open during normal
17 business hours to the public for at least 1,000 hours
18 during the taxable year.”.

19 (b) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to taxable years beginning after
21 December 31, 2017.

22 **SEC. 5103. EXCISE TAX BASED ON INVESTMENT INCOME OF**
23 **PRIVATE COLLEGES AND UNIVERSITIES.**

24 (a) IN GENERAL.—Chapter 42 is amended by adding
25 at the end the following new subchapter:

1 **“Subchapter H—Excise Tax Based on Invest-**
2 **ment Income of Private Colleges and Uni-**
3 **versities**

“Sec. 4969. Excise tax based on investment income of private colleges and universities.

4 **“SEC. 4969. EXCISE TAX BASED ON INVESTMENT INCOME**
5 **OF PRIVATE COLLEGES AND UNIVERSITIES.**

6 “(a) TAX IMPOSED.—There is hereby imposed on
7 each applicable educational institution for the taxable year
8 a tax equal to 1.4 percent of the net investment income
9 of such institution for the taxable year.

10 “(b) APPLICABLE EDUCATIONAL INSTITUTION.—For
11 purposes of this subchapter—

12 “(1) IN GENERAL.—The term ‘applicable edu-
13 cational institution’ means an eligible educational in-
14 stitution (as defined in section 25A(e)(3))—

15 “(A) which has at least 500 students dur-
16 ing the preceding taxable year,

17 “(B) which is not described in the first
18 sentence of section 511(a)(2)(B), and

19 “(C) the aggregate fair market value of
20 the assets of which at the end of the preceding
21 taxable year (other than those assets which are
22 used directly in carrying out the institution’s
23 exempt purpose) is at least \$100,000 per stu-
24 dent of the institution.

1 “(1) IN GENERAL.—Subsection (a) shall not
2 apply with respect to the holdings of a private foun-
3 dation in any business enterprise which for the tax-
4 able year meets—

5 “(A) the ownership requirements of para-
6 graph (2),

7 “(B) the all profits to charity distribution
8 requirement of paragraph (3), and

9 “(C) the independent operation require-
10 ments of paragraph (4).

11 “(2) OWNERSHIP.—The ownership require-
12 ments of this paragraph are met if—

13 “(A) 100 percent of the voting stock in the
14 business enterprise is held by the private foun-
15 dation at all times during the taxable year, and

16 “(B) all the private foundation’s ownership
17 interests in the business enterprise were ac-
18 quired not by purchase.

19 “(3) ALL PROFITS TO CHARITY.—

20 “(A) IN GENERAL.—The all profits to
21 charity distribution requirement of this para-
22 graph is met if the business enterprise, not
23 later than 120 days after the close of the tax-
24 able year, distributes an amount equal to its net

1 operating income for such taxable year to the
2 private foundation.

3 “(B) NET OPERATING INCOME.—For pur-
4 poses of this paragraph, the net operating in-
5 come of any business enterprise for any taxable
6 year is an amount equal to the gross income of
7 the business enterprise for the taxable year, re-
8 duced by the sum of—

9 “(i) the deductions allowed by chapter
10 1 for the taxable year which are directly
11 connected with the production of such in-
12 come,

13 “(ii) the tax imposed by chapter 1 on
14 the business enterprise for the taxable
15 year, and

16 “(iii) an amount for a reasonable re-
17 serve for working capital and other busi-
18 ness needs of the business enterprise.

19 “(4) INDEPENDENT OPERATION.—The inde-
20 pendent operation requirements of this paragraph
21 are met if, at all times during the taxable year—

22 “(A) no substantial contributor (as defined
23 in section 4958(c)(3)(C)) to the private founda-
24 tion, or family member of such a contributor
25 (determined under section 4958(f)(4)) is a di-

1 rector, officer, trustee, manager, employee, or
2 contractor of the business enterprise (or an in-
3 dividual having powers or responsibilities simi-
4 lar to any of the foregoing),

5 “(B) at least a majority of the board of di-
6 rectors of the private foundation are not—

7 “(i) also directors or officers of the
8 business enterprise, or

9 “(ii) members of the family (deter-
10 mined under section 4958(f)(4)) of a sub-
11 stantial contributor (as defined in section
12 4958(e)(3)(C)) to the private foundation,
13 and

14 “(C) there is no loan outstanding from the
15 business enterprise to a substantial contributor
16 (as so defined) to the private foundation or a
17 family member of such contributor (as so deter-
18 mined).

19 “(5) CERTAIN DEEMED PRIVATE FOUNDATIONS
20 EXCLUDED.—This subsection shall not apply to—

21 “(A) any fund or organization treated as a
22 private foundation for purposes of this section
23 by reason of subsection (e) or (f),

24 “(B) any trust described in section
25 4947(a)(1) (relating to charitable trusts), and

1 “(C) any trust described in section
2 4947(a)(2) (relating to split-interest trusts).”.

3 (b) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years beginning after
5 December 31, 2017.

6 **Subtitle C—Requirements for**
7 **Organizations Exempt From Tax**

8 **SEC. 5201. CHURCHES PERMITTED TO MAKE STATEMENTS**
9 **RELATING TO POLITICAL CAMPAIGN IN ORDI-**
10 **NARY COURSE OF RELIGIOUS SERVICES AND**
11 **ACTIVITIES.**

12 (a) IN GENERAL.—Section 501 is amended by adding
13 at the end the following new subsection:

14 “(s) SPECIAL RULE RELATING TO POLITICAL CAM-
15 PAIGN STATEMENTS OF CHURCHES, INTEGRATED AUXIL-
16 IARIES, ETC.—

17 “(1) IN GENERAL.—For purposes of subsection
18 (c)(3) and sections 170(c)(2), 2055, 2106, 2522,
19 and 4955, an organization described in section
20 508(c)(1)(A) shall not fail to be treated as organized
21 and operated exclusively for a religious purpose, nor
22 shall it be deemed to have participated in, or inter-
23 vened in any political campaign on behalf of (or in
24 opposition to) any candidate for public office, solely
25 because of the content of any homily, sermon, teach-

1 ing, dialectic, or other presentation made during re-
2 ligious services or gatherings, but only if the prepa-
3 ration and presentation of such content—

4 “(A) is in the ordinary course of the orga-
5 nization’s regular and customary activities in
6 carrying out its exempt purpose, and

7 “(B) results in the organization incurring
8 not more than de minimis incremental ex-
9 penses.”.

10 (b) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to taxable years ending after the
12 date of the enactment of this Act.

13 **SEC. 5202. ADDITIONAL REPORTING REQUIREMENTS FOR**
14 **DONOR ADVISED FUND SPONSORING ORGA-**
15 **NIZATIONS.**

16 (a) IN GENERAL.—Section 6033(k) is amended by
17 striking “and” at the end of paragraph (2), by striking
18 the period at the end of paragraph (3), and by adding
19 at the end the following new paragraphs:

20 “(4) indicate the average amount of grants
21 made from such funds during such taxable year (ex-
22 pressed as a percentage of the value of assets held
23 in such funds at the beginning of such taxable year),
24 and

1 “(5) indicate whether the organization has a
2 policy with respect to donor advised funds (as so de-
3 fined) for frequency and minimum level of distribu-
4 tions.

5 Such organization shall include with such return a copy
6 of any policy described in paragraph (5).”.

7 (b) EFFECTIVE DATE.—The amendment made by
8 this section shall apply for returns filed for taxable years
9 beginning after December 31, 2017.

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